De acq.da vel omitt.da hereditate — fol — 001
De lib. et posth. hered. inst. — fol — 023
Ad Rub. de acq.do heredit. — fol — 181

Dr. Don Barthe. de la Serna Spinola
Collegial mor de Sevilla

Pro Dr Pedro Calderon
y Barnuevo

Dr. Antº ...

Est. 2 ...
Tab. E

Manuscrito en 4.º pergamino. mal tratado con 237 hojas.

Tratatus juridicus.

Rotulata

Lectura juris.

Ad titulum de acquirenda & omittenda hereditate.

n° 2

qualiter testamentaria hereditas siue paganorum siue militum deferatur ... deliberet superioribus titulis comprehensum est nunc quomodo ... hereditas ... quiratur & ab eo omittatur in hoc titulo exponitur cui consonant titulus codicis de iure deliberandi et de acquirenda hereditate et codicis de repudianda ... hereditate ... interpretes ... et deliberandi et ad quirendam & omittendam hereditatem spectant ... Bartolus ... Cumanus Jasonem et alexandrinus ... Duarenus ... Gregorius lib. 46 ... cap. 1 ... Richardus ... cap. 1 in 4 in fine.

n° 2

... titulus ... verbis ad quirere ... quaestiones ... hereditatis ... lege 88 infra hoc titulo lex ... 6 codicis de iure deliberandi ... hereditate ... titulo 6 ... heredes ... domino ... quicquid ...

n.° 3. qd. cum quidam animo de clarasse nol. [illegible] haereditatis. [illegible] baston. d. sit. 2. et 3. ff. de interrogatorijs actionibus. et [illegible] ex quibus [illegible] pendet ... necnon animus ad ostendendum haereditatis [illegible] debeat in [illegible] rebus haereditarijs tamquam dominus [illegible] [illegible] et dando [illegible] haereditarijs [illegible] ministrando. [illegible] ex [illegible] digo [illegible] haerede. 20. § Papinianus. in [illegible] 56. § [illegible] infra hoc tit. d° § [illegible] de seruitutibus [illegible] qualitate [illegible] infra communiter [illegible] 22.

nu. 3.

Diversus erit [illegible] talia [illegible] quae [illegible] extra ius et nomen haeredis ad inexpensandum dicta lege pro haerede 20. § si quid [illegible] et § [illegible] et quid [illegible] haeredis. et § final. legis [illegible] 22. in primo legis [illegible] 22. § [illegible] legis [illegible] quod legis duo fratres 7. 8. infra hoc tit. [illegible] [illegible] sunt dubia [illegible] illud obseruabis [illegible] non [illegible] potest. qui [illegible] suo iure [illegible] nullo [illegible] alieno [illegible], videatur potius suo iure [illegible] quam alieno. lege [illegible] in principio [illegible] [illegible] ff. de servo corrupto lege, merito [illegible] ff. pro socio lege [illegible] 15. § [illegible] 36. ff. de iniurijs. ex quo [illegible] protestatio qua excepti haeredes [illegible] solent, ne animo haeredis [illegible] ea quae gerunt [illegible] pietatis aut custodiae causa [illegible] 14. § [illegible] ff. de religiosis et sumptibus funerum: [illegible] pro haerede 20. § primo, infra hoc tit.° lege 11. [illegible] 6 [illegible] 6. ubi Gregorius [illegible] [illegible] ad [illegible]. cap. 3. Donellus [illegible] lib. 7.

Commentariorum

Commentariorum. Cap. 8° Gaius lib. 2 cc. 25
Antonius faber. in cursu [illegible] at [illegible] ind.a lib. 2
et 3° ff de [illegible] rogatory actionibus.

n° 4.

Ita constat quod [illegible] contendere sup. dicta [illegible] conclusio
[illegible] ad declarandum quod [illegible] hereditatis jure atquirere
sive adire hereditatem. et qui adit pro herede gerere
[illegible] dicitur [illegible] adire [illegible] hereditatem quo
veteres [illegible] verbo agnoscere declaraverunt. [illegible]
[illegible] quod [illegible] adire [illegible] in-
fra hoc tit. [illegible] cod. de [illegible]
qui vero pro herede gerat quocumque facto [illegible]
[illegible] agnoscit ad hereditatem [illegible]
pro herede gerit adit. [illegible] pro herede gerere [illegible]
aliquid [illegible] heredes [illegible] pro herede [illegible]
fra hoc tit. [illegible] valere [illegible]
[illegible] voluntate [illegible] heredes [illegible]
[illegible] qui adit [illegible] pro herede gerere [illegible]
nullus sit inter hec differentiis.

n° 5.

Respondet [illegible] primo
[illegible]
ex [illegible] velimus [illegible] confundi
[illegible] veteres [illegible]
genere [illegible] ad adire [illegible]
[illegible]

Ger[illegible] [illegible]

[illegible]

[illegible] verita[illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] faber [illegible]

[illegible]

20 ex [illegible] [illegible]

[illegible] [illegible] 26 [illegible]

[illegible] manifeste [illegible]

[illegible] 79 [illegible]

[illegible]

[illegible]

[illegible]

[illegible] mandari [illegible]
[illegible] et [illegible] adque [illegible]
[illegible] mandatu [illegible]
[illegible] et [illegible] mandatu [illegible]
[illegible] mandatum [illegible]
[illegible] mandato [illegible]
[illegible]
[illegible] facere [illegible]
[illegible]
[illegible] 5.
[illegible] manifestare [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] vida
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] qui [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] hereditas
[illegible] [illegible] [illegible] [illegible] qui [illegible] [illegible]
[illegible] [illegible] praedicta voluntas a [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] quas [illegible] [illegible] [illegible] [illegible] [illegible] hoc
[illegible] [illegible] [illegible] et voluntate [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aparte
demonstraret [illegible] [illegible] [illegible] [illegible]
[illegible] hereditas [illegible] ex [illegible] [illegible]
[illegible], et [illegible] quoquo modo voluntatem suam
declararet [illegible] [illegible] [illegible] [illegible] [illegible] aliquo loco
[illegible] [illegible]

3º [illegible] et [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] de [illegible] [illegible]

et [illegible] [illegible] [illegible] [illegible] 22 [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] quo [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] quo
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
continuato [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] et [illegible]

XXXX

[illegible] [illegible] [illegible]

Circa [illegible] renda hereditate

XXXXX

XXX

Cum vero sit quo ad sui in mixtos adquisitione hereditatis
specie dici [illegible] non domino [illegible] in suis heredes [illegible]
nulla nec hereditas nec hereditatis adquisitione [illegible] in sui
[illegible] ad aditionis [illegible] post mortem [illegible] in mixtione [illegible] heres
[illegible] quisque in potestate [illegible] omissa [illegible]
[illegible] in [illegible] heredi [illegible] successore [illegible]
paterni dominus [illegible] communem [illegible]
[illegible] bene [illegible] impuberi
[illegible] necessarius 57 [illegible] Bartolus [illegible]
[illegible] Jason [illegible] Quarrnio
[illegible] Jonetes dicto [illegible] 7 cap. 1 [illegible]
31 [illegible] errore [illegible] 6 [illegible] 2 [illegible]

Quo ad extraneos [illegible] supra dictos [illegible] adiri Nu 10
re [illegible] hereditatis modos [illegible] nemo est heredes [illegible]
nec [illegible] aliorum [illegible]
[illegible] hereditatis species cum re ipsa nihil [illegible] rem
[illegible] testator [illegible] hereditatis [illegible]
vocamus non agnoscere hereditatem [illegible]
[illegible] declarare se velle [illegible] esse [illegible]
suscipere [illegible] noct. [illegible] et 2 cod. [illegible]

[illegible] Frantiis[?] [illegible] veterij in codice qui admittis.

Item: Ane cretio erat certum tempus datum scriptis haeredibus instituto ad deliberandum utrum ex. velint et haereditatem adirent, ne cuius rei formula: Titius haeres esto cernitoque in diebus 100 proximis quibus sciveris poterisque, nisi ita creveris exhaeres esto. Cernere erat verba cretionis dicere ita cum Maevius haeres mihi institutus erit eam haereditatem adeo cernoque. Cum igitur verbum cernere nihil aliud est quam adire, sancitum erat in utroque verbo ut si vacare[?] ver sibi sed ita ut ex posteriori [illegible] cretio [illegible] tri acceptilatio [illegible] debitor rogabat creditorem ut sibi haberet acceptum et acceptum ferret ut tradit Donellus supra. Cum cretionis solemnitas [illegible] coepit exolescere, [illegible] Theodosii statuto penitus sublata, l. cum antiquitus, de cretione in codice, de iure deliberandi, in qua statuitur ut nuda voluntate et quocumque verba [illegible] haereditate [illegible] etiam si testatori visum fuerit haeredes suos haereditatem cernere [illegible] superiori cretionis formula ad quam respiciens Justinianus et nunc [illegible] ex [illegible] in [illegible] § Sed hi institutores de haeredum qualitate ait [illegible]

[illegible] rate [illegible] ac [illegible] [illegible] [illegible] [illegible] adeat. [illegible] [illegible] [illegible] [illegible] vel [illegible] modo ex [illegible] [illegible]. [illegible] conveniunt [illegible] vestrum [illegible] et [illegible] [illegible] formula [illegible] notandum [illegible] [illegible] cap. 41. [illegible] [illegible] lib. 4 b. [illegible] cap. 2. [illegible] Petrus Faber. [illegible] [illegible] [illegible] [illegible] [illegible] 8. [illegible] lib. 9 observationum [illegible] cap. 129 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] finali.

[illegible]

[illegible]

[illegible] qualitate [illegible] 30 [illegible]

[illegible]

[illegible] plurimi [illegible]

[illegible] ad [illegible]

[illegible] et [illegible]

[illegible] 40 [illegible]

[illegible] quedam [illegible]

[illegible] metafora [illegible]

[illegible]

In Rubricam ibi Commenda

[illegible] [illegible] ... ita et [illegible] [illegible] [illegible] ... [illegible] [illegible] considerabitur [illegible] ... [illegible] heredes [illegible] ... [illegible] curatoris [illegible] ... [illegible] tempore [illegible] ...

n° 14. [illegible] ... voluntas [illegible] ... [illegible] ...

[illegible]

[illegible] et [illegible] velut [illegible] [illegible] interrogantes
[illegible] [illegible] [illegible] magis [illegible] modo
[illegible] ad quem veritas [illegible] [illegible]
[illegible] hoc [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] versiculo [illegible]
[illegible]. de eadem qualitate. [illegible]
[illegible] [illegible] [illegible] ex [illegible] qui
[illegible] ad [illegible] [illegible] potuit. [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] in [illegible] 17 [illegible] [illegible] contra hoc
[illegible]. [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] 23 [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ex [illegible] [illegible] nomine [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]. [illegible]
[illegible] [illegible] [illegible] philosophi [illegible]
[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] n° 23
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] ad [illegible] [illegible]
[illegible] 23 [illegible] [illegible]
[illegible] 8 [illegible] [illegible] 23 [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

ipse e declaratio ad autoris solem nihil inqu
edicto facta [illegible] in dicto ad [illegible]
tra rale [illegible] ad [illegible] contra [illegible]
se [illegible] § 8. [illegible] matrimonio et ex testamento
[illegible] tota [illegible] que [illegible] repudianda hereditate
late. [illegible] [illegible] [illegible] non
in [illegible] hereditatem [illegible]
ndas ad [illegible] [illegible] faber. 2. se meshus
cap. 23 ao [illegible] 2. [illegible] cap. 25 [illegible]
[illegible] que comodo [illegible] lege qui [illegible]
[illegible] [illegible] [illegible] [illegible] ex [illegible]
[illegible] contra hoc 40. [illegible] e.
[illegible] [illegible] 4 [illegible] [illegible]
[illegible] [illegible] [illegible] non [illegible]
[illegible]. 9. l. 7. cum [illegible] ultera, [illegible]
[illegible] hereditatis [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] confessio
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] contra hoc [illegible] [illegible] modi.
qua ad omissionem tanta, quam temporis lapsu induxit sine
nota a ferri non potest. idque colligit Extravaganti ex parte 76 §
Extravaganti hoc tit. cum unica vox quaedam omissionis Agurtius
quando non detectis partes congerit alia testimonia. Brisonius
lib. 13 de verborum significatione verbo omittere dicat ergo verbum
omittere quo recte rubrica nostra inscribitur effectus recon
ciliationis recusationis a ostentionis et omissionis speciali
his hereditate totas neque has voces ita distinqui aut diver
sas alias generis species constituam
n.º 6 Deducitur ex his minus recte fingi hic vocem embe
[illegible] et alios quos refert et sequitur noster Richardus ad hunc titu

cul. cap. 7.

cuz Cap. 7 nu. 3 affirmare capitulum hunc ni hac omitten-
de fuisse inscribi noti equiparatione cum ff. de adquirend. vel
amittenda posessione ubi a Doctor. et generalior habetur
quis significatio et magis de iuris dispositione de tota materia
tit. Et eo solo fundamento euidenter conuincitur quod licet hec
admittere generale sit eius tamen generalitas per ipsi habet
circa modos admittendi potiam adquisitionis nam quesitum non
admitti predicitur l. 1 ibi sabita demum ff. quoq modis usufruc
tus admittitur l. videtur ff. de regulis iuris hereditas ante
quam adeatur et si cuius considerabile obtineat quoad aliquos iu-
ris effectus l. inde Neratius 23 § 1 ff. ad l. falcidiam cum
his digestis aliis alibi et pharadoxorum cap. 5 heredis tamen
non l. sola verum l. 3 ibi et ante opposterum ff. ad legem falcidi
am unde cum in hoc tit. tractetur de hereditate non dum quesita re-
tinenda ac recte inscriberetur et hec omittenda nec comprehende-
ret modos supra relatos quibus tantum de latum non cum tamen que
situm respiciunt ut in repudiatione probat tis in lex de decreta
lis ubi quia quod adquisitum et repudiari non potest ff. de suis et legitimis
to docent et ad in principio uniuscuiusque explicatione observabunt Jason
in l. si filius heres nu. 30 de liberis et posthumis Corneo
in l. [illegible] nu. 2 Codice de repudianda hereditate.

[illegible] n. 47

[illegible] 5

[illegible]

Declaratione Capitulum § Commemorantes [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

nº 19 [illegible] verba [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]
nº 20 [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

Deq[ue] qui res[tr]ix de[bet] declarare

A [illegible] declaratio, [quae] habet in [illegible]
[illegible] mandat[um] n. 77. [illegible] de creditis, [illegible]
[illegible] in [illegible] quo [illegible] ... permittit
[illegible] alt. arg. ... [illegible] causam
[illegible] gestis ... [illegible] 4 ... [illegible]
[illegible] mens ... [illegible] ... [illegible] ad [illegible]
[illegible] ... cum q[uae] qu[a]e, ... [illegible]
[illegible] ... 445 n. 57. [illegible]
quaero n. 68 ... [illegible] 125. ap. ...
[illegible] ... [illegible] ...
[illegible] contractus tenet a [illegible] quaerere [illegible]
[illegible] ... honor [illegible] quaerat ... cap. 25
... [illegible] generatione hereditatis ... 2
[illegible] ... [illegible] declarare [illegible]
ne.

[illegible] quaerit[ur]
et [illegible] videntur [illegible] declarare [illegible]
4 [illegible] ... 23. ... 49 [illegible]
... [illegible] ... [illegible] 12. ... 20
[illegible] ... [illegible] ... [illegible] 4 ...
[illegible] 4. manente ... [illegible] ...
[illegible] ... [illegible] ... [illegible] ...
[illegible] ... [illegible] ... [illegible] ...
[illegible] ... [illegible] considerationem ad [illegible]
[illegible] ... [illegible] ... [illegible]
[illegible] ... [illegible] ... [illegible] ...
[illegible] ... [illegible] ... [illegible] ...
13. ... [illegible] ... 33 ff.
ad [illegible] a qui [illegible]

[illegible]
[illegible]

n° 21 ... ius ... venditat ...
... et ... iure ...
... vita ... acquiren... ...
... expulsam ... ad ...
... sunt ... iuxta ...
... tenere ... bona ...
... Gerundi ... ...
... inconsistentem ... vita ...
... aparent ... ...
... quibuscumque ...
... omnium ... propriu...
... sup... capit. 25 n. 3 ...
... inter ... aperam ...
... quia ... quod ...
... et ... verior ...
... verae ... mala ...
... aquilam ... quod ...
... dominia ...
... dominus ... heredes ...
... equivalentia ...
... 22 ...
... ...
... ...
... Domino ...
... 22 ... ff. ...
... [illegible]

n° 22 Et ... dominia...
... [illegible]

§ [illegible]

[illegible] ex [illegible] ff [illegible] aquilea [illegible]
[illegible] exp[illegible] ne [illegible] [illegible] tract[illegible] nomina[illegible]
[illegible] commentaria [illegible] 23. [illegible]
[illegible] sequ[illegible] agit [illegible] [illegible] clar[illegible]
[illegible] numera [illegible] [illegible] [illegible]
[illegible] et [illegible] [illegible]
[illegible] recte [illegible] Romanus [illegible] commentario
[illegible] cap [illegible] [illegible] in [illegible] cap. 10.
[illegible] cap. 10. et [illegible] 10 cap. 16.
[illegible] qua[illegible] [illegible] qualitate
[illegible] coniectura [illegible] cap [illegible] et cap [illegible]
qu[illegible] argumenta [illegible] diversa [illegible]
[illegible] verbis [illegible] argumentum [illegible]
[illegible] [illegible] [illegible] nec [illegible]
[illegible] ad [illegible] neces[illegible]
[illegible] ante [illegible] [illegible]
Cominus [illegible] erit [illegible] interpret[illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] Albe[illegible] [illegible]
[illegible] et [illegible]

[illegible] rem [illegible] n. 23
quae [illegible]
[illegible] in universum [illegible]
[illegible] 24 ff de verborum [illegible]
[illegible] 2. [illegible]
[illegible] 37. in [illegible] 95
[illegible] 2 ff [illegible]
[illegible]
[illegible] et [illegible]
178 § 1 [illegible]

[illegible] 28 [illegible] seme
[illegible] que [illegible] reparare
[illegible] Card[inalis] [illegible] Fr[atr]es
[illegible] sup[er]ioris [illegible] Un [illegible] tricent
[illegible] commendatorio [illegible]
[illegible] dispositiones [illegible]
[illegible] 28 [illegible]
[illegible]
[illegible]
[illegible] 62 [illegible] deantiquo
[illegible]
[illegible]

[illegible] nro 29

[illegible] 24 [illegible]

[illegible] et [illegible] verbal [illegible]
[illegible]
[illegible] et [illegible]
[illegible] 24 et [illegible]
[illegible]
[illegible]
[illegible] et [illegible]
[illegible]
[illegible]
[illegible] 27
[illegible] 94 [illegible]
[illegible]
[illegible]
[illegible]

n. [illegible]

C[illegible] [illegible] [illegible]itate

[illegible]

[illegible] nº 25

[illegible]

[illegible] nº 26

[illegible]

[illegible]

[illegible] in perpetuum [illegible]

[illegible]

[illegible] 3 [illegible] creditum

[illegible]

[illegible] domino [illegible] 25 [illegible]

[illegible]

[illegible]

[illegible] 24

[illegible]

[illegible]

[illegible] Bartolus

[illegible] Covarruvias [illegible]

[illegible]

[illegible] 3.

[illegible]

N° 27

[illegible] verat [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

n° 28

[illegible] ... morte ... [illegible]

[illegible] ... naturali ... [illegible]

... omnia ... [illegible]

[illegible]

a quore [illegible] [illegible] [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] abiius morie
[illegible] et ea [illegible] [illegible] [illegible] Ma[illegible] La
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] p
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] in tuerit em [illegible] tad ex his [illegible]
([illegible] [illegible] [illegible] indi [illegible] generali
[illegible] [illegible] [illegible] aeterna veritate [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] trata quod
[illegible] [illegible] ex [illegible] et [illegible] constat. [illegible] [illegible]
[illegible] Sarito [illegible] sententia [illegible] [illegible] hereditas [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] de[illegible]talem
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
20 [illegible] 3o lib. 6 cap. 2 [illegible] [illegible]
lite. , 4

n. 29

ex his resultat vera [illegible]
[illegible] [illegible] hereditas [illegible]
[illegible] [illegible] [illegible] [illegible] ex [illegible] (
[illegible] [illegible] [illegible] [illegible] quia [illegible] [illegible]
[illegible] [illegible] [illegible] notary [illegible] e nat
[illegible] [illegible] ex singularium [illegible]
[illegible] singularia in potentia [illegible] [illegible]
universale. Considerari et [illegible] nullie
[illegible] [illegible] hereditarie [illegible] hereditaty [illegible] [illegible]
creditoy [illegible] [illegible] potenti [illegible] va
[illegible] [illegible] resultant, [illegible] [illegible] [illegible]
[illegible] [illegible] constat ex alexandro [illegible] n. 9 [illegible]
et facere ex [illegible] [illegible] [illegible] [illegible]

inzo Capello

n. 29 [illegible] 2 [illegible]
[illegible] que [illegible]
[illegible] de [illegible]
[illegible]
[illegible] que [illegible] multa [illegible]
[illegible]
[illegible]
[illegible] regis [illegible]
[illegible]
[illegible] 3 [illegible] ereditary [illegible]
[illegible]
[illegible] hoc [illegible]
enim [illegible]
[illegible] 23 [illegible]
[illegible]
[illegible] qui [illegible] mutitur [illegible]
[illegible] 76. [illegible] unde [illegible]
[illegible] qui [illegible]
[illegible] nunc. quae [illegible]
[illegible]
[illegible]

Ex quo [illegible] interiectu [illegible] n. 30
[illegible] quia [illegible]
ex [illegible] ereditas [illegible]
[illegible]
[illegible] romanus [illegible]
[illegible]
[illegible]
[illegible]

[illegible] sub [illegible] ne [illegible] communicatio
[illegible] nec [illegible] neq; [illegible]
[illegible] incorporeum [illegible] et [illegible]
[illegible] habent [illegible]
[illegible] 2 Baldus [illegible]
[illegible] in q. 3 [illegible] n° 47. [illegible]
[illegible] tamen [illegible]
[illegible] argumento [illegible]
[illegible] 57. [illegible]
[illegible] Cornelio
28 [illegible]
[illegible]
[illegible] Baldus [illegible]
[illegible] in q 4 [illegible] n° 5 [illegible] 3 [illegible] 4.
[illegible] 7 [illegible] 2 [illegible] 42
[illegible] vere [illegible]
[illegible] 33 [illegible] (Contra [illegible])
[illegible] quod [illegible]
[illegible]
[illegible] 37 [illegible]
[illegible] ratione [illegible]
[illegible] conveniat.

32 [illegible] insque
[illegible]

[illegible] et [illegible] requiruntur [illegible]
[illegible] incorporalis [illegible]
neq; [illegible] neq; [illegible] animo [illegible]
[illegible] omnes incorporales
[illegible] aquae [illegible]

Versiculo cum [illegible]

[illegible] hereditate [illegible]

[illegible] heres [illegible] magnitudo
[illegible] administratione [illegible]
certis [illegible] quo [illegible]
[illegible] veritate [illegible]
hereditarius [illegible]
[illegible] dominii [illegible]
[illegible] 2 § item
[illegible] et [illegible]
neque [illegible] heredes [illegible]
acquirendo [illegible] dominio [illegible] et [illegible]
in qua usus fructus continet [illegible] possidet [illegible] et [illegible]
[illegible] et futuro [illegible] hereditarius servus
[illegible] 28 § [illegible] 35
[illegible] ff de [illegible] servorum [illegible]
[illegible] eodem [illegible] servus
ff de [illegible]
[illegible] 27 § [illegible] ff de
[illegible] servus 26 ff de [illegible] servorum [illegible]
[illegible] usus fructus [illegible] possedit [illegible] usus
fructus 26 ff de [illegible] usus
fructus [illegible] quo [illegible]
[illegible] ff [illegible] fructu § fructus
[illegible] eodem ad hereditate [illegible]
[illegible] persona [illegible]
[illegible] aliter [illegible] fructu servo hereditario
[illegible] usus fructus [illegible]
[illegible] ff [illegible]
[illegible] usus fructus [illegible] possidet [illegible] et [illegible]
[illegible] hereditas dominum
[illegible] erat.

B

in [illegible] [illegible] de [illegible] personaliter
[illegible] ut [illegible] [illegible]

n.° 32 Non tamen in [illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible] [illegible] postea [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] procede [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] capio [illegible]
[illegible] [illegible] ex [illegible] [illegible] in
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] postea [illegible]
[illegible] [illegible] postea [illegible] [illegible]
[illegible] [illegible] capio [illegible] ad [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] capio [illegible]

n.° 33 Respondeo, [illegible] tamen [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] 14 [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] 19 [illegible] [illegible] [illegible] [illegible]
[illegible] persone [illegible] [illegible]
[illegible] [illegible] persone [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ex [illegible] Jure
[illegible] [illegible] [illegible] tamen [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] refert
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] de [illegible] [illegible] [illegible] et [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible]
[illegible] [illegible] et [illegible] [illegible] [illegible]
[illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] in [illegible] procede
[illegible] [illegible] [illegible] quo modo [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Reiecta
emendatione [illegible] [illegible] [illegible] [illegible]

Quaeritur [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] n° 34
[illegible] [illegible] extranei heredes [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] ex [illegible] heredes [illegible]
[illegible] [illegible] qui [illegible] [illegible] erat tempore mortis
[illegible] [illegible] [illegible] [illegible] ex [illegible] [illegible] [illegible]
[illegible] quas [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
qui [illegible] [illegible] [illegible] [illegible] causa [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] Requirere
ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] intro
[illegible] [illegible] [illegible] vera quae [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testatoris

nostra qui viv. mag. morno domino ago sive hered. suo
qrad. (teyy ta bin acm. videl. nullus dat. cay tary. qui
videat sona ereditaria ec nullus poser ovalifr
verso ex lenity in q. illi ereditag g. cotile Devolu. subjos
tractatu 3 ad atmi canus in q. erog que i primo bonjia ff
general regnu. tabor de erbond. Decade 3. erore i n° q.
et cordani ntria 4° 2 in vappo 3 ragione 3 jobertay
2 variarus ad 3 doneus. d. v 7. lan. 2 et 2 ull.
Obra cay verra . C. et D. dr. art a gomesio i tomo
ter. q. ccl 17.

n° 35 nostra i l. mitar dal l. ipsy. sui et
reje am. bianne incertum. Successore
eiusque testator quo exacselaris voluntariy ex sec
Cornelius Cg. ita. tal dubitarii ff 55 ff de ereditary
hereditary in verba hec 12 ff decondtionis ingita
tionis que ipse. cur dominus defuncti in eos in tenimu
48° m et regge i ad curn successit recurere et heredi
tates dare sue inventus, hoc l dub. indictio impleatur
Defuncti nepotes terraneus prosecuutus Antonius
faber in 3° decade 3 erore 8 n° 5

n° 36 de cujus tab. yrad. sui heredib
ex, genm. 6. ereditaries datis.
conjunt. extra inta bono. 2 in n° my qui extraques
n. l. cui ereditate 55 su ne yar 57 in fractu 4°
sui 2 et 2 ff ganeri. iona ereditary in ereditate q. do ff.
proposito. ne sujeare f. s s ad fines su nas qu. 19 Gomez
tamquay ff ad vero ge. icano in 2 s. B. hom. 8 frad. th.
reformand. receptio crial. usque memoria riscontrando

nomine hoc creditas que [illegible] &c. in [illegible] ejus non [illegible]
patrimonium. Adeptus defuncti et [illegible] tutius [illegible] abec.
Rebus [illegible] proprietatem [illegible] que defunctus [illegible] n° 37

Si primo medio [illegible] hic esse
[illegible] ad [illegible] non [illegible]
nempe patrimonium quod fuit defuncti quo [illegible] ejus [illegible]
[illegible] [illegible] creditatem in personam [illegible]
ille a [illegible] ad [illegible] [illegible] tunc [illegible]
[illegible] que [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] et [illegible] [illegible] et
[illegible] nulla [illegible] creditas [illegible] creditate
[illegible] personam videtur que [illegible] [illegible] pars per
[illegible] creditatem [illegible] lex 1 et 2 ff [illegible] creditatis
et [illegible] hoc [illegible] [illegible] [illegible] [illegible]
[illegible] 24 ff de verborum [illegible] [illegible]
[illegible] [illegible] creditatis [illegible]
[illegible] quasi [illegible] creditate [illegible]
defuncti [illegible] [illegible] [illegible]
[illegible] qui admittit [illegible] Baldus [illegible] 314
lib. 3 [illegible] modo [illegible] creditas [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
3° [illegible] [illegible] [illegible] ex qualibet
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] tomo cap. 9 n° 18 ubi plura nota-
bilia [illegible] ex [illegible] doctrinam [illegible]
[illegible] quod [illegible] n° 38
et maiori declaratione et [illegible]
ratione [illegible] [illegible] n. [illegible] quod [illegible] n° 39

expressi an quod tenetur procedere necessario nec reputabitur
in ipsum sufficere an quod ita valeat quando adquirere
ita ex novo contra mentem fructus in quo michil 2° Cod.
n° 38 acquisitio ne procedat ita et Bene ius communia
creditorum antiqui Covarruvias Gratianus cor. Salicetus Sire
Ius et alii varii Buciani ad Cynus et 3° cas. q. litera
I, et ad quae quaeris ut in n° 7 8 supra pronunciando
et ex veritate contra quod contra Refutat et com
Bartolus libera in additionibus ad Gomez congruum ita
F, et ratione cum inconvenientiam inferatur in his at° procede
de adquirat res alienas in iuniori univ. pact. ad
indicia ostendit Antonius faber decora... decade 32
errore § n° 8 · Gomez, Gen. con. contra diligentia
ex tenor pro non veritate ...atione dicto in 2° § finali
quod ... ipso cum medio Sirere ... rerum agentes
... nec sat ... atrum non ... fundabit ... possessoris ipsum
tantum tenetur procedere ... in actu ...
... ipsius eadem res ... naturaliter posse dysere
quod tamen posse ... causas mutare non posset supra pro
... ipsius legis qui adverti ... Antonius faber decade
42 errore 3 et 4

n° 39 Tantum non posse procedere ... ex humano
humano ... et alii ex mente fructus
in quo michil taliter ... heredibus
... actio ... tenetur procedere ... Reputatione cre
... cum ex suis et filio nemo alter ...
... ... et ... in utilitate ...
... ...
... ...
... ...

quod deposita

[illegible]

quod per sponsa commendata erat vel [illegible]
[illegible] filius sive ex [illegible] [illegible] tt. procedit
et quod in [illegible] [illegible] ex [illegible] [illegible]
[illegible] ff. pro [illegible] et dolet [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] fuerit translatus [illegible]
[illegible] [illegible] [illegible] [illegible] ex [illegible] ad [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in [illegible]
[illegible] quoque [illegible] [illegible] [illegible] [illegible] [illegible] tenebat
neque contrarium [illegible] ex textu [illegible] [illegible] unde liberi
et tamen [illegible] nomine alterius [illegible] eredem patris
[illegible] [illegible] [illegible] in tamen ex eo [illegible] [illegible]
[illegible] tt. procedit que [illegible] [illegible] [illegible]
ff. res [illegible] [illegible] [illegible] [illegible] quasi [illegible] gene
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tt.
procedit usucapio [illegible] [illegible] ff. procedit n° 40

Quare [illegible] aut me in altera
[illegible] [illegible] [illegible] [illegible]
et tamen [illegible] [illegible] [illegible] seu heredis in [illegible]
ad [illegible] [illegible] tt. procedit [illegible] [illegible] [illegible] [illegible]
[illegible] effectus operetur doctorum [illegible] [illegible] [illegible] [illegible]
[illegible] patri [illegible] ff. de [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] et legitimis liberis [illegible] [illegible] [illegible] n° 22
[illegible] [illegible] et postumis [illegible] [illegible] tamen [illegible]
[illegible] requirit et [illegible] actualis [illegible] et [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ff. de [illegible] [illegible] [illegible] heredes
continuet [illegible] [illegible] possessio [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] possessione
ff. [illegible] [illegible] [illegible] qua [illegible] [illegible]

indu[a] servus v. 5 lex 39 Juramento ex Corpo[re]
5[o] mese ranan[dus] cap. cr. servus meian ab Ofrainto
Serra, C. vir 7 cap. eo impropria sentenzia a lege in
de tg inquy ... de modo ... posito nel ...
quod videre in Sun zende[?] quas ... concordantia re
Cuyo, Baldus, e novertione de lesy ...
que lo q ... dico ... prosedat impse
prone attuali qui apprehen... requeriv sequendum
intellectuali et que interpretationes ... Bartolus
quas effecto ... impositione gravitas ... ex
quo ... doctrina plurarum ferunt videndi ... arro
... de Jure patronatus ... in ma parte ... sequendum
Cabri questione 3[a] articulo 2 ... federicus de Senis
consilio ... 102 Albert. in cap. consul. ... rubr.
n[o] 4 de Jure patronatus.

n[o] 41 Cerreri ... et ... filiis declarandum
... persona ... declarandum

in profedw. ... tempore ... institutionis in ...
mas ... persona illa ... sumpto ... per
procuratorem go. ... institutionis
quibus ex causa ... institutionis ...
declarandus quod ... prima ... parochiali ...
... divulgari ... allegare ...
bayro ... ubi alla verba ...
personas ... de heredes ... possius
... praecedentia ... morte promissory ... inferenda
ille ... sensus sive expulsiones ... et non ...
... merito ... ex ... transporte
meredes ... personas ... eorum ...

heredes

[illegible]

heres adire [illegible] [illegible] [illegible] quo
[illegible] Bartolus in l. 9. [illegible] ff. de legatis
2° [illegible] in ejusdem [illegible] n. 2 ff. de adquirenda
[illegible] dominiis Antonius [illegible] ut in [illegible]
cap. 20 [illegible] et 2 principio [illegible] [illegible]
[illegible] haereditas magis [illegible] persona
quam [illegible] representet in themate, nam haereditas
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] manerent et [illegible] [illegible].
[illegible] magis [illegible] [illegible] defunctus quam
[illegible] [illegible] [illegible] [illegible] et ideo [illegible]
[illegible] quam non [illegible] representare [illegible]
per ubi proxime [illegible] [illegible] [illegible] annotavi n. 50
cap. 2°

[illegible] [illegible] [illegible] et
declaratio [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] et [illegible] [illegible] [illegible]
fictam personam [illegible] [illegible] defunctum representet [illegible]
[illegible] [illegible] heres adit qui magis proprie personam de-
functi referre debet [illegible] [illegible] [illegible] [illegible] praedicta
persona ficta et [illegible] [illegible] [illegible] [illegible]
[illegible] incipit [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] in l. 1 ff. [illegible] n. 14 [illegible] quare
[illegible] in quaestione [illegible] [illegible] n. 5 [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] ex
n. 137. Gutierrez in cap. [illegible] [illegible] omnium
[illegible] n. 8 [illegible] in 6° et [illegible] [illegible] et antiquiores
[illegible] 22 [illegible] 3 ff. [illegible] hereditaria [illegible]
[illegible] [illegible]

n° 43

Et hanc declarationem in lege

[illegible] videtur et quia quod [illegible]

[illegible] in alia [illegible] considerari [illegible]

reducta ad id in [illegible] herencis [illegible]

[illegible] ex [illegible] exigit [illegible] 5 et infra

hoc [illegible] 28 [illegible]

[illegible] omnia 193. ff [illegible] ex quo [illegible]

[illegible] hoc [illegible]

[illegible] mortis [illegible] alligari [illegible]

qui [illegible] magnum absurdum sequi quod [illegible]

[illegible] tempore [illegible]

[illegible] domini earum [illegible]

[illegible] contra [illegible] legis [illegible] § §

[illegible] commodari [illegible] legis possidere [illegible]

[illegible] ex contrario ff [illegible] contra

142 § [illegible]

n° 44

Sequendo [illegible] quod [illegible]

[illegible]

in [illegible] herencis [illegible] familias

18 ff ad legem falcidiam et hanc [illegible]

[illegible]

[illegible] 22 [illegible] 3 [illegible]

[illegible] ff [illegible]

29 ff [illegible]

[illegible] hereditatem personalis [illegible]

[illegible] defunctum [illegible]

n° 45

[illegible] respondetur

quod [illegible] hereditas et heres unius

persone [illegible] fungantur [illegible] heres 22 ff [illegible]

[illegible] [illegible] [illegible]

[illegible]

Quas tamen apud aliones Caesarum [illegible]
cuiusque passio consideratur prior [illegible] a generalitate
[illegible] [illegible] dominia [illegible] [illegible] quaerens
dominus [illegible] fuit et [illegible] ~~[illegible]~~ [illegible] [illegible]
quandiu [illegible] melius [illegible] quod [illegible] commune
in iure [illegible] [illegible] introducendi [illegible] admodas
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
tate [illegible] consequens fiet [illegible] super [illegible]
[illegible] [illegible] [illegible] verus [illegible] [illegible] et verus dominus
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ne sublata hereditarii [illegible]
[illegible] illo tempore [illegible] inter mortem [illegible] familias
et hereditatis aditionem interesset [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] introducere per quam [illegible] [illegible]
[illegible] adita hereditate [illegible] [illegible] [illegible] mortis testatoris [illegible]
[illegible] retro [illegible] de [illegible] mortis et [illegible]
[illegible] [illegible] [illegible] lege [illegible] 54 [illegible] [illegible]
[illegible] [illegible] ~~[illegible]~~ ac lex cornelia de captivis
apud hostes mortuus [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] 42 § fin. de [illegible] [illegible] [illegible] pre
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ~~[illegible]~~
[illegible] dominus [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] consideratio [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] dominus [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible]

Sequenda [illegible] [illegible]
ex [illegible] [illegible] [illegible] n. 9.

n. 46

[illegible]

filium familias [illegible] secundarem
[illegible] non esse [illegible] propositum
ex [illegible] institutum [illegible] admittat.
hic [illegible] in hac parte
spectant [illegible] anno [illegible] pro
nomine filio familias qui militaverat et decedens patri
[illegible] castrense
[illegible] dubitatum fuit an [illegible]
[illegible] ex fidei commisso quantitas deduci posset an quasi
[illegible] parte [illegible]
[illegible]
[illegible] dubitare [illegible] ad veritatem [illegible] falcidiam [illegible]
[illegible]
[illegible] fidei commissa [illegible]
[illegible] hereditas [illegible]
[illegible] apud patrem [illegible]
[illegible] et [illegible] extra-
neus [illegible] castrensi
[illegible] filius familias [illegible]
[illegible] ff.
[illegible] ff. [illegible]
[illegible] ff. de castrensi peculio [illegible] peculium
[illegible] castrense [illegible]
[illegible] 14. § 1.
[illegible] castrense peculio [illegible] 33, ff. [illegible]
[illegible] 18 ff. [illegible]
[illegible] peculium erat [illegible]
[illegible] hereditas [illegible]
[illegible] filius familias [illegible]
[illegible] ad patrem. [illegible]

rex ... vacante in commissione
Mirandola

Coniunctiones quae ex ... hereditate

... et in hereditario seruinet, d. l. C. ... quarta
ff ... ad Trebell. ... necesse obstare in aliis ... ,
commisso ... quod quando ... excipere falcidiam
quam ... consiliatrices ... et hereditates et heredes
... ex quo ... , inquestio de proposito
... in ... quartas ... eius ... omnes eruditas
... et ... Dominum.

Contrariam tamen affirmativa ... n. 47.
... alia ... 8 ...
... de me dubitare ...
ad ... dubitare ... petam. de
... et quod ... sequeretur
quod ... partes ... contineri
et ... omnia ex ... ad ... exemplo
... de ... nomine convenitur ex ...
... consequens ... ad ... ex fructibus
medio tempore ... quartam et quartae fructus
habuerit ... Trebellianus senatus consultum
... et ... actiones ex ... nostrum
... et ... et ... Paulus
... ex fidei commisso ... quartas
detrahere ... ex fructibus ... quod ...
... ex ... hereditario ...
... per ... patet ... et ...
... falcidia et
senatus consultum Trebellianum ... ex ...
... habeat ... quod ... hoc ...
ff ad Trebellianum ... ...
... quod patet ... ex fidei commisso ...
... ex quibus personis ... ...

l. ...

hereditas incerta quando
locus? hereditati fuit

ibi probat quod hereditas per res in personae plane cum hoc
non proponatur institutum sed ab intestato gravatus in
potest aditione heri hereditas et restitutione conquis
desinit ll. pecuniam sequentem et responsio habent hec
hereditario quod mutatione personae sequentia ll. dispo
nunt, lex pactio quarta vel 90. § 1 infra hoc tituli constar
et hiis obsequi dictis pecuniarias rationes ante lege filius
familias aditione et restitutione hereditati fieri et
sic sequitur illius textus et sequitur

n° 48

Textus in l. cum ad filius 29

ff de usucapionibus respondetur,
hereditatis qua ratione personae facta aditione eius
in quas diximus successerit § sed ff de
nobis remanentibus, vel quatenus accipiunt pro uni deputate
patrimonium quod de heredes pertinet ante possessores
dicitur neque emancipatus est et allegat appellat nomine
quo appellari solebat lex in quibus 56 in princ. ff de adqui
rendo rerum dominio lex ex bono 37 ff de negotiis gestis
alias lex n° 8 Corpus, ante possideat n° 7 codicis
de impuberibus et constat ex dicta lege cum plus ad res hereditarias
non proponit tibi traditio, ubi etiam dicto denegatur
usucapio cum res quae a herede traditae est quo omni
modo sit extinctus hereditas nomen, ejus quo ad ipsas
res in solutum interemanens de quibus sit aditae hereditatis
responsionem tradit ss. nihil habent ad futu
rum proinde quod res ex empto non suam non
possessiones quod ingreditur tum ob medias rem
hereditatis restitutiones exigitur in potest ex textu inverte
de usucapione contingeret in verbo consequens

Col. di qui renda ereditate — Marsida

Dionig 2° de acq. ff. procurade

nº 49

... in g ... venientes ... 22. ... nempe ...

[illegible]

nº 50

[illegible]

all paragrafo stessa

in ne faty cu pr relu ne q. Can 2 literal. infine

nº 51 quorum hereditas hoc illa personarum nota quas comprehendimus ... transfert nomine, ... sive legitimorum ... agnatos ... cognatos ... ex ... successione ... legitimos ... affirmamus ... quoque ... de ... iure ... habuerunt ... vera ... cognati ... nullaque ... hereditas

nº 52 ... et Iure antiquo ... observabat ... agnatos ... delata ... agnatos ... successio ... iure ... legitimis ... agnatorum successione ... agnatis ... tempore ... succedunt ... legitimus ... legitimi ... et nomen hereditatis ... et iis ad ... vertamus ...

De adventitiis hereditatis 21.

Fisco exequatur ... eo casu ... hereditas ... fisco deferenda ...

Verum superiores declarationi ...

Cedad qui venda ciudad...

verba ... vacansia ... ex nimat... vergonius ... quintumani ... cederat ... michel ... quintumamini ... et michel ... om ... vacansia ... in capaz ... in tasso ... amisso ... in qua ... dubiusl ... in capaz ... te ... primera ... sanct... lex 23 tt. 7 partita 6 ... de jure ... fisc. lib. 3 ... Antonius Gomesius in l. 4 ... taurinis ... 23 ... faber ... in capaz ... auferat ... que ... in conserv... et ... que vacante que cadunt ... et ... lex de los 7 ... per tota ... consumendo ... Dominum ... et vere ... caquirar ... et vero ... oqupare

abiendrino

nº 54

Quare ... integra ... ilustris ... illa ... in verul ... prior ... aquimanianu ... et ... inquo dubiusl ... ex ... querela ... ciudad ... quinamaniale ... vacante ... in ... de jure ... fisc. ... intermestaso ... vendi quinamani ...

[illegible] erat

Imperator in muneribus et non servitiis [illegible]
et [illegible] nisi [illegible] omnium honorum [illegible]
[illegible] in vacantia [illegible] occupaset [illegible]
[illegible] in primo casu omnium honorum [illegible]
[illegible] [illegible] iure [illegible] [illegible]
[illegible] et [illegible] casu fiscus bona in vacans
[illegible] occupaset [illegible] imperator [illegible]
[illegible] et que [illegible] inquentia [illegible]
[illegible] in effectu consequentur erat reliquisque
fuerunt [illegible] [illegible] peny sequens reliquy
et hec [illegible] vero [illegible] interpretatio et ex [illegible]
et [illegible] verissima [illegible] [illegible] [illegible]
ones fiscus nempe occupare defuncti bona [illegible]
vacantia [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] bona [illegible] ff de iure fisci
faber [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] regula 37 peregrino de iure fisci
[illegible] [illegible] Donellus lib. 9 cap. 2 ubi [illegible]
[illegible] et [illegible] Gregorius [illegible] 7 tit. 23 [illegible] 6.

[illegible] nam superius [illegible]
[illegible] fiscus heres [illegible]
[illegible] de controversiis [illegible] heredes [illegible]
[illegible] et defuncti [illegible] representationes
et personarum identitates quas [illegible] civile inter heredem
et et defunctus induxit [illegible] Bartolus [illegible] n. 4.
Romanus [illegible] n. 24 [illegible]
[illegible] [illegible] [illegible]
[illegible] ff de [illegible] Antonius faber [illegible] de [illegible]
decad. 45 errore 4 n. 5 in [illegible] confirmationes

C eadem renda ereditate

alegat Bartolus txi in lege 4 § eadem conjunctio
l. 27 ff de fideicom. mis. ry libertatibus ubi h[illegible]
bentes fidei com[illegible] ... conjunctio ... conjunctio
... amore ... cum nemo defunc[illegible]
heres existebat ... in § eadem ... 2 ... diversi
... ff ... vacantia
... vacantibus ... 10

nº 56. Item nevariatur ... solet alegari txs
... 22 § ... senatus
... ff de petitione ereditatis
... probatum ... competere ... petitionem ereditatis que non nisi eredi datur ...
... et ad hoc illum txs alegant Paulus et alec
sander ... ex facto § ... ff ad trebelianum

nº 57. Ad huc ... Item
... non ... consenticus ... contra
... txs ... § ... senatus ... impe
titione ereditatis ... ex ...
... antequam ... txs ... re
... senatus consultum ...
... quo ... nichil ... ereditatis ...
... quasi ... ad fiscum
... tamen ... ad ...
... 17 § fiscus ... ff de ...

perpetui

que [illegible] constitutio ordinarii [illegible] tuas [illegible] vacantibus [illegible] habent [illegible] contraria [illegible] ex se vacantia quae [illegible] [illegible] veras ex [illegible] manifeste probat [illegible] [illegible] annorum vacantibus in [illegible] jure [illegible]

Videlicet [illegible] [illegible] annorum c. n. 58
[illegible] [illegible] [illegible]

mensium vacantibus [illegible] ordinariorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tamen [illegible] qui [illegible] antiquo [illegible] [illegible] [illegible] tenebatur [illegible] 33 [illegible] matrimonio unde [illegible] [illegible] antiquo [illegible] [illegible] [illegible] [illegible] jure [illegible] non [illegible] [illegible] [illegible] habere [illegible] [illegible] [illegible] hic [illegible] Regia [illegible] [illegible] n. 5. [illegible] [illegible] [illegible] n. 5 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] n. 26

[illegible] [illegible] [illegible] [illegible] [illegible] 59

[illegible] [illegible] [illegible] [illegible] vacantibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

dispositione affirmativam videtur adprobandam
potissime cum non viceversa ariquidem intuito ttº suprafat
sententias et legatis cumulare à simentu q ff de testamenta
stricto lei 2 cod de testamentaria manumissione
cum canonali 27 versus Scaldi cominus uberius et confir
mat textus ubi gº et dicto Marto 50 ff de manumissis ttt
illi alio quis vacantibus sic commentatores non habere
contradictiones loquti denique facit textus ubi ag & §
eadem consentione versiculo quare ff de fidei commissariis
libertatibus Baldus in textu 17 nº 6 ff ad trevel
lianum quibus clarius lib. 5 responsorum § finali questione
78 versiculo te conveniatur vos Barardus Menochius
de praesumptionibus in genere lib 3º § 27 nº 25 in fine farina
ceius lib. i questionum criminalium questione 25 nº 186
plures vidian apud Gammam de iure fisci lib. 4 tt 3º nº 26

nº 60 Obstante tamen dispositione iuris insig
regulare 6 § desy o. ff ad trevellia
num lex cum ita § ff ad sic mancaris tibi quidam 96
§ cosis ff delegatis i inquibus syeus libertatis legata
et fidei commissa privatur et debetur consessimus
vacantibus syed sempre hec fauen dispositio Baldus ubi
ag vel quasi nº 5 ubi com munem opinionem dicit me
nochius nº 5 salycetus ubi vulgi § pemultimo nº 39
cavye de caducis stoles Osoaldus innotatus ad Donellum
litera, C; lib 7º commentariorum cap. 20 et lib 8º
cap. 29 litera H

nº 62 Circumvenimur hac difficultate A.
ycolus dys Glossa curiosus ubi § dicto ycolus i
generis eis textus prodere casus o quia nona

[illegible] ab [illegible] tranquell ad indiciro quolibet
fy cias [illegible] gra[illegible] tement [illegible] ex [illegible] C. l. hsic
ff de [illegible] esse a uirio [illegible] [illegible]
[illegible] vanae cadere [illegible] multo [illegible]
[illegible] fy cias [illegible] mortes [illegible]
[illegible] ?
[illegible] ratione [illegible] in hoc casu nostro
[illegible] vnnitam et ideo vana [illegible] fy cias.
[illegible] indicio autem [illegible] casu
[illegible] de legatis [illegible]
[illegible] finali ff de [illegible] legis [illegible]
[illegible] impietate [illegible]
[illegible] memoria eius damnata
[illegible] Indicatur
[illegible] facultas [illegible]
[illegible] de legatis 2°
tandem non conberit [illegible] indicito [illegible] et omnia
nec prius [illegible] benedicta berit facta
nonad binedicta set ad veru[m] petitione[m] pertinet impra
significatione passim jure accipitur vt constat ex
Legend. lex 56 ff de reiuendicatione lex debitor
quarenda ff de pignoraticia actione lex 5. 27. §
qui legatum ff de auro et argento legato lex inre
69 C. de jure docium.
Bene[illegible] qua firmandum textum illum
Loqui in fisco qui ocupat bona bacancia qui ideo
ad prestatione[m] relictorum tenetur quia codicilis ab en
testato factis fideicommiso fuit grabatus, ut ita legem
felices L. 64 § quin testato 2 ff de legatis 2

m

el S. [illegible] mc queda

sic erit casus suposuit a Jurisconsulto ubi lamagis ex
pre(ssum) seu non fuerit quia de eo principaliter non tracta
batt sed de alio an fiscus cogi posset adire et restitu
ere hereditatem per textum in lege quae[illegible] quando
ff eodem titulo ad trebelianum ad 3 quintum necessario
suponendum erat fiscum fuisse rogatum L 1a § [illegible]
ubi rogatur sit § eodem et sic his habilibus terminis
supponitis respondet Juris Consultus corpori sicut
cuiet corpori potest sicuti municipium aliud ve
Corpus publicum dicta lex recusare sexta § Item si
municipes Donelus li 7 c 22 nec impedimento erit
quod fiscus heres non sit nam licet legata non nisi ab
herede Relinqui possent principio institucionum
de singulis rebus fidei commissi tamen ab omni qui
ex judicio defuncti quoquo modo capiunt relinqui po
terant Lex 1a § cunctum ff de legatis 3. ubi ab eo
Codice le fidei commisit atque ita ab isto potuit in illa s
pecie fidei commissum relinqui ut in dicto § quinte
tato

nº 63 ad textum in dicta lege fide
9 2 § cover de legatis 1o Respondet Bartolus
ex Jacobo de arenis quod ibi bona indigno haeres
ablata paulus castrensis quod fiscus adibit quia nunquam
potuit antea adire ut ad eum ad Bartolum ubi ad bonit
istam omissis aliter responderi solet textum loqui
in casu quo ex lege Julia sibi bona applicantur
justa legem secundum de codice ad legem Juliam de vi
Leicis ut propponit § Cum bonis proscriptorum et i
tum legata [illegible] legatis qui [illegible]

Maneat 3 codes Coelium

dicitur nocere non debet [illegible] in fine [illegible] alg. [illegible] si fuerit [illegible] imperator [illegible] fideli commissis [illegible] nominante [illegible] quis [illegible] causa [illegible] [illegible] loquatur [illegible] in republicatis [illegible] verbis [illegible] [illegible] potest [illegible] [illegible] non [illegible] [illegible] interpretatio [illegible] [illegible] [illegible] restringit [illegible] quae ex [illegible] publicant.

Quare [illegible] nostri [illegible] 64.

[illegible] quae cadunt in becaducha [illegible] caduca. olim hereditas erat quae post mortem testatoris [illegible] [illegible] caduca erat [illegible] caduca [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nostri [illegible] [illegible] cap. 5 n. 27. [illegible] [illegible] [illegible] [illegible] [illegible] fiscus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Cuneer [illegible] claudius anno 1628.

C

Are arredamentum a segunda glosa nota ... per Laurentium glosam

[illegible]

voluntas singulariter delegati [illegible] que exercentur nemo prestare. at nemo in [illegible] prestare [illegible] cum additione [illegible] nata [illegible] in eas quas [illegible] communes [illegible] inteslatis delegari [illegible] ab eo cuius bona [illegible] cum [illegible] et sic constat [illegible] [illegible] inventis vacantibus. nec ne credens [illegible] neg. alegata teneri et minus recte contrarius [illegible] Saguinem relatu approbando [illegible] et [illegible] [illegible] [illegible] [illegible] tamen [illegible] eorum sententiam pro iure adimitendus sit extante [illegible] [illegible] in lg. [illegible] 4 lib. 5 recopilationis ubi [illegible] legata [illegible] nullus exemptus sit nemo [illegible] qui exemptus [illegible] creditates in [illegible] ultra materiam et [illegible] [illegible] videndus Gomezius in lg 24 taurin. [illegible] et 3 variarum cap. 5 n. 8.

illustrabimus definitionem etc. n. 66

[illegible] traditas sup. n. 23 et [illegible] adversariorum impugnationibus defendimus [illegible] declarationibus exornabimus [illegible] [illegible] nas hereditas [illegible] que defunctus representat [illegible] ex [illegible] quas ad modum pro [illegible] professoris [illegible] [illegible] [illegible] [illegible] simul [illegible] dari debebat. [illegible] [illegible] [illegible] hoc [illegible] creditatem. quod negant [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 2. § [illegible] [illegible] ff decommune [illegible] creditatis [illegible] 68. ff [illegible] [illegible] [illegible] ff de [illegible]

in contra 6 § fina. de asia re. arcora amotarum

lu. 21 tt. 14 part. 1a §

n.° 7 In hac re de re illa non solutione valde fluctuant et laborant inter

partes et merito cum in temporibus prudentiorum ingenia fuerint controversia an eruditate furtum fieret quibusdam exis. (?) dominum [illegible] fiera dicta leg. 2. § 2 ibi q. eruditati

furtum fieri et § in tantum 29 ibi ad sola furta ff.

[illegible] qui titulo lu. [illegible] quae verba in ad actiones furti

[illegible] adsunt suspiciones doctores referuntur cum furti

in proviso infamias eruditatis ex quibus actores incu-

rrant lu. iure 22 cod. ex quibus causis infamia in-

[illegible] Menochius lib. 2 de arb. iud. casu 300; Plures [illegible] Farinacius in praxi crimi-

nali tomo 2 quaestione 174. a gomezio supra n.° 26

quibusdam exis. (?) dominum non [illegible] eruditati furtum non

fieri. quorum sententiam obtinuit dicta leg. 2.

§ Cevola. cum similibus. Baldus ubique dicta cod. de

furtis [illegible] labranus et plures alii relati

a nostro pichardo hic cap. 2 n.° 46.

n.° 8 In mora ione hac re ruit opinionum

tanta quod diversi sunt doc

tores [illegible] exeraditi ad vantalo. [illegible] ere-

ditarie quaestio in [illegible] qui improvincia n.° 25.

ff. [illegible] pendet secundum Celectarius cap. 9.

[illegible] verissima est quam tradit guerra consultis [illegible]

§ Cevola.

De acquirenda eredtate

§ secundo ita q̄ possessio non ereditarij n̄ habet quemadmodum vita
ex pectetur sed q̄ cum furtum aperciat Decatur q̄ inco
rpor. exhibitorum transferat, § i. inprimis in nullis a probl.
aiqui ominibus quel deliceretur oportet eē alliqua rerum
sed feratur lex falsus 43 § qui alli enim rei neque om
omni furtum fit nisi sit qui fiat ff de furtis et indicant
exempla propositam in eā hereditate quandia bij sse
quem bus inquibus furtis committitur quoniam liger
eē hereditaria ab hillis tamen possideratur saltem natu
raliter. Vij Jenijs q. requiritur ex parte tenentis et ex
parte auferentis Dolus et furandi animus d° § i. lex pri
maria lex falsus 43 § qui alienus ff de furtis qui di
versus cum facta sit ingerenti rate que possessio fit in ē dam
num potest et sequi possessionis que fuit etiam in ē inca
pax ē sic ē in capax in ereditarie non furtum fiat
at q̄ committuntur mox possessiones. vit eius quo
quoque medo remotis interpretis illius sit lex eius 24
§ praeterea i cum sequentibus & lex ereditarie ff de
furtis illustrant Antonius faber in capitulo anca
th° 2 principio § illa ratione ȝ revelavit dt. osualdo in
notatis ad donellus lib 6 cap. 2 litera G. et libris
cap 29 litera H. venedicto Danelis 2 selectarum
cap 9. n° 5

n° 6

Velud hunc interpretationis in le
gum ipsa ibitare, videmur. l.
iris in lege hanc Cuius 35 ff de usucapionibus ubi le
gatario quamvis pregionsas. non legati possessiones.
dominus ē lex Stichus 86 § cum servus ff de legatis
i° lex aliusio 64. ff de furtis uergo furtum competit
tamen si possessor. in furtis 2° tres in ly. sequinquy q2

ff. de furtis v. cum capras ab hostibus ... reversas ... ad... actiones fuerunt proinde ... ind. directa cum ... potestas erat et tamen per cap. ... possessiones amiserit nam cum ab ... possidebatur ... possidere non poterat. l. cum heredes 23 § 1° eadem ... possessione neque ... eam ... non ... sec. de ... 29 ff. ex quibus causis maiores, 3° valde constat quod si ... ... capras ... fuerit ... debebat ... eadem ... ... commoditate ...

n° 10. Secundo quoad difficultatem respondendum l. Arg... ... capillos ... commodo ... fructus ... ... quae ... ... et consequenter ... possessio non ... de rebus corporalibus ... potest l. 3. § in corporalis. ... ... dominio ... ff. de ... ... legatarius ... agere ... quam ... fructus ... habet ... in... ... intelligitur possidere ... ... confessionem ... ... assumendum ... expositio nec ... ... quam recte explicat ... ... commentariorum cap. 29 ... ... qualitate ... ... cap. 9. n° 27.

n° 11. Ad ... ... respondeo ... ... non ...

Rep...

Eas quae veniant reditionis

recipimus quo ad usucapionem. quae tendit ad avocandum dominium rei suae quo inquietation. Continet in ipsis ... pro ... denique ... iuncta ... sequenti ... ex quibus causis maiores ... inquirunt ... inquisitionem ... auferre dominium ... n. absentibus ... cum neque absentia causa reipublicae ... Sed fabiat ... exquibus causis ... maiores quaerenti recte ... legibus sub ... quae ad propriam ... sine damno alterius expectans ... usucapiendi ... quis non ... declarando ... fundi possessionem ... fructus quasi possessionem. recuperet ... fructus ab alio medio tempore ex usufructu ... Dicitur 23. § item. Et exquibus causis maiores ... inquirendis exquo ... ex ... sicut quis reversus ab hostibus. n. agat ... capitando in alterius damnum ... de conservanda re quam capi ... potent ... differre ... habere actiones ... eaque ... exceptionem ... ac si captus n. fuisset. ... affirmat ... Richardus ... in commentariis ... ad hunc ... cap 2 ... 5

De negociis ... rerum ... n. 12

Praepositionis ... et auget difficultatem ... furti ... damno contendit ... quadruplum ... furti manifesti ... duplum ... expresse

pro hereditate quam acquisivit vnde ... secundum. Quin etsi hominum
eas assumptionis [illegible] non quae ... continent.
... querere ~~[illegible]~~ persequendae gratia comparatas quorum
nominis ... inveniat causa ... nominem ... ex ...
... nobis absque ... [illegible] ... ex alteriius
pena lucrum. carentes ob ... vero ... intuitu
... ... capionibus et ...
... ob rem, ... tamen ex
pena eius quibus ... negligentiae lucrum ... ...
... ... conservatur. ... singulari iure
pro ... allegando ... ... possessionis defectum

n° 73 Quare verius quod ... causa
quae ... possessionis ...
Iurisconsultorum ... quam ex ipsa causa dominii
... sunt nonnulli qui existimant ...
dominium absque possessione ... sufficere ad ... fieri
... contrarium longe verius et manifestius ...
... ex ... definitum ... ...
ob ... quae ex ... ad ...
... ipsius ... possessionis ... quae verba
... neque ... interpretatio-
nem. ... exponamus ... quemadmodum ...
commutativa ... possessionis ... ... dominium
possessione ... aliter ... dominio ...
... ... separate possessionis neque ...
neque ... ...
ex ... ... 68 ... ...
... ... 8 ... ...
... ubi absque possessione ... ...

acquisit

Q.

C. ad [illegible] creditate

[illegible] non habet [illegible] communi [illegible] [illegible] manifeste [illegible] ex [illegible] in [illegible] [illegible] alienum [illegible] [illegible] defuncti [illegible] [illegible] [illegible] qui [illegible] [illegible] actio domine [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] autem [illegible] [illegible] [illegible] habere [illegible] [illegible] sequuntur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] qui non possidet actio [illegible] competit

[illegible] [illegible] aperiamus n° 74

[illegible] [illegible] [illegible] adhuc [illegible] [illegible] [illegible] hereditate [illegible] [illegible] hereditate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] hereditatis [illegible] [illegible] [illegible] [illegible] [illegible] voluerunt [illegible] [illegible] [illegible] illi qui tandem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quorum [illegible] heres [illegible] alii heres [illegible] qui [illegible] 2 § 2 [illegible]

Doctus dominus

n° 75

Iure seguitur in vite aliquo dicti bollotum? ut dici, in mediis sit adeps

[illegible] ... videtur ... quam ultimo aliud tradere ... ani ... n° 4 ... ff de

usucapio ... in heredem transferre ... tale quale veris heredibus

erat ... translatio fiat cum eis dem qualitatibus

... [illegible] ... fuerit ... heredibus ... agnoscere

... heredem donec ipse

... possessionem ... dominium quod

... heredibus ... transferetur ... [illegible]

... sola ... operante traduc

tum ... naturale ... possessione acqui

ritur ... dominium ... [illegible]

... dominium ... verum ... notari ... ff de

... [illegible] ... Barrassa ... in ru

brica ff soluto matrimonio ... parte n° 40 ad ...

... ratione dominium commutatur ... possessione

... dominium ... naturale ... possessione

... [illegible] ... in fine ff de

... [illegible] ... obligatio ... que

... [illegible]

... traditis ... in Rubrica Cod. de

... n° 24 debet ...

... quasi ... naturale, ...

nequaquam ... et sic dominium ...

... [illegible] ... agnoscere ...

Iure manifesto,

Circa quaestionem creditate

Istor. [illegible]

ad manifeste confirmat ... (illegible) ... plicariis ... declaravimus qui natus ... possessiones ... legate ... tamen ... quaerimus ... ex ... possessione ... legatis ... delegatis ... creditis ... quibus ab ... quae inaequalitate ... diximus ... nominas ... et hereditatis ... quaeri ... et ... et exornavimus.

r 76

Quo ad territoriales partes ... originem ... interpretando in ... mortuorum ... in figura ... animae ... voluntas ... corpore ex ... quomodo voluntas ... memoria ... Cap. 6 ... immortalitas animae ... mortali ... consilio ... tamen ... mentarius Cap. 2 n. 3 ... Cap. 7 ... Lib. de ... natura ... de ... Alexander ... Rubrica ... Iudex ... Doctores ... annotatis ... commentariis Cap. 4

n° 77 — Descendens et heredes
sed mediate et simpliciter succedens
referantur iure haeredum [illegible] argumento
legis nemo esse — ff de acquirenda [illegible] legis cum ratione
ff de vero [illegible] [illegible] solemnitate et forma
et quo [illegible] defuncti repraesentationes et iuris trans-
missiones iis et heredes iure [illegible] tribuuntur
cap. [illegible] in quaestione [illegible] ob ventre 230
ff de verborum significatione [illegible] Bartolus [illegible] n° 2
[illegible] interdum n° 5 ff de conditione [illegible]
[illegible] [illegible] ff de heredibus instituendis
n° 40 Covarruvias 3 variarum cap. 6 n° 7 Gomezius
in Rubrica [illegible] [illegible] 1 parte cap. 1 n° 23
Menochius [illegible] lib. 1 [illegible] [illegible] [illegible] noster
Menardus [illegible] cap. 3 Donelus [illegible]

n° 78 — Ex quaestione resolutione [illegible]
[illegible] [illegible] [illegible] ea amicabit
[illegible] iuris [illegible] [illegible] ff de pe[illegible]
[illegible] ex [illegible] aliquis [illegible] [illegible] [illegible]
[illegible] in l. 1 [illegible] de verborum [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] iuris [illegible] [illegible] [illegible]
[illegible] [illegible] haeredum quo [illegible] [illegible] [illegible]
[illegible] attendatur [illegible] [illegible] [illegible]
[illegible] in [illegible] de [illegible] [illegible] quibus [illegible] [illegible]
[illegible] habet [illegible] [illegible] [illegible] [illegible] [illegible]
l. 4 § et [illegible] ff de [illegible]

n° 79 — Secundo [illegible] ratio ad textus
in l. 3 in fin. ff de verborum

significatione

C. ead. quirendae ereditate

secunda [illegible] [illegible] [illegible] [illegible] [illegible]
quia non possit quod [illegible] hereditas non [illegible] [illegible]
[illegible] [illegible] captivus [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] ff de in [illegible] et
[illegible] ea omnia quae iuris [illegible] ff neque [illegible]
neque [illegible] haberi potest. [illegible] aliena [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ante quas
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ff de captivis et [illegible] romanum et
[illegible] [illegible] [illegible] [illegible] ff de [illegible] [illegible] [illegible]
2 § ff [illegible]

3 ex dictis ex [illegible] [illegible] n° 80
[illegible] [illegible] [illegible] [illegible] [illegible]

quae non nulli deducunt [illegible] [illegible] [illegible]
[illegible] iuris [illegible] [illegible] omnia [illegible] [illegible]
[illegible] ex tanta [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] de iure naturali [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ubi
forma et solemnitas testamenti [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] iuris [illegible] [illegible] confessione [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] solemnitas [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] et [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] neque [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
ff de [illegible] [illegible] [illegible] [illegible] § si constat

[illegible] en Murcia et idioma ... tradit a covarrubias
lib 3º variarum cap. 6º sineli in rubrica Castellae
Paresendlada 1ª parte cap. 2º nº 4

nº 81 ex dictis etiam interpretatis deducitur
... in consuetudine
... ut ... extra ... vel
... voluntarie derogare ... ab eo
... conditione ... prima
... sive ... ex
... ab ... habere
habet ex dictis ... confirmatur
... et ... paratum
in rubrica ff de ... in 40.
... 327 ...
... cap. 8 nº 5 ... Molina de
... cap 8º nº 28 et lib 3º cap 3

nº 82 ... ex dictis ... la origine
... tapiamente ... Bartolus
nº 3 ... in consiliis
inventarium ... ultra ...
... et ere affirmandum ... se
nesi ... et si heres ... omnibus here
ditatis obligetur lei quadoh's 33 ff soluto matrimonio
lei more § infraxec tit. lei sito ons 20 lei remus
22 Co selero 12 Co de ... e deliberandi ...
q. ex dispositione iuris heres defuncti representat et una
...persona efficit ... de iure ...
... in principio ... defunctus
... tenebatur ... heres ...
et ... ex iure gentium ...

Infame ...

In foro conscientiae standum a vai tenetur non penali de integrali restitutione fecimus in c. 2 n. 3 ... heres in foro conscientiae ... ultra hereditariae vires. n. 53

... [illegible] ratione ex eo quod etiam lex civilis obligat in foro conscientiae ... in c. quia in ecclesiarum et ex collectione ... de constitutionibus ex D. Thoma 1a 2ae quaestio 96 art. 4 Castro de legibus penalibus li. 1 c. 4 Gutierrez libro 1o Canonicarum c. 4 n. 20 Cob. ... 6 de ... Gomes in lege 3a Tauri num. 123

respondendum iudico quod licet lex civilis etiam in foro conscientiae obliget id tamen non procedit quales fundatae in praesumptione ... quae obligant ... heredem non conficientem inventarium fundetur in praesumptione ... heredibus et falcidia ... omnis eti propterea quae forte subripuit et ... conficerint ... pena exclusio ... merito si contraria praesumptione constiterit bona in quibus heres ... non sufficere creditoribus non tenebitur in foro conscientiae, ... satis facere quia praesumptio legis alia maiori excludi ... arg. text. in leg. ... 137 ... debere. n. 84

... autem in contrarium constare de maiori praesumptione seu de veritate quo ad forum conscientiae ex sola confessione heredis ... placuit ... pro ignorantia de poenitentia ... 5 ... significasti 18 versiculo cum de ceteris de homicidio ... prima ... non ... de privilegiis ... segura in lege ... n. 127 de adquirenda n. 85

Porcione expirio in extrecu. gl. 15 n. 56 Coban 4. 2a parte c. 6 n. 20 Greg. in Bericulo Salmandas in lege 20 tt. 5 partitab. Gomesius in dicta l. 3a vers. n. 234 quibus absolvitur hec rubrica

FINIS.

Ad l. 9 leg. Ed. 2 ff. de adq. qui sen. aab. omitte da hereditate

Se [illegible] materia [illegible] que [illegible] Ulpiano [illegible] ff. [illegible] et que
n. [illegible] [illegible] continentur [illegible] ad [illegible].
Ulpiano [illegible] [illegible] [illegible] inscripsion [illegible]
[illegible] [illegible] [illegible] Paulus et Ulpianus
[illegible] [illegible] [illegible] [illegible] minus Pacue [illegible]
in [illegible] [illegible] partem ad [illegible] Iudicabitur [illegible]
[illegible] Paulus et Ulpianus qui [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] antiquiorum Iur.
[illegible] [illegible] [illegible] [illegible] [illegible] confirmatione
[illegible] [illegible] [illegible] [illegible] [illegible] hairas
[illegible] et a [illegible] [illegible] [illegible] [illegible] et [illegible]
antonius [illegible] [illegible] [illegible] cap. 60

Cu. Tasly

Decaquilendariendiane

Cuiusque in notis de Julius Claudius commemorat
Sigilli. imprimis insp[ecti]on[e] [illegible] in [illegible]
n.° 8 et nono.

Venatis senentia Iul[ius] [illegible] cal[umnia] ut
instituti ex offi[cio] noli mutare 2

Citare n[on] potest eam Iudendi partem. adire et partes.
reputare. que sententia [illegible] ultimo, und[e] [illegible] Amplu
acuit ad Trossedat. essam. inter quae explurimos partibus
[illegible] hereditarii institutis fuit ad n[on] possess[ionem] quasdam
ac nosseret et quasdam reputare. ad hanc [illegible] leonel
[illegible] pertinet Iura [illegible]. fac. asse. 20. lei. sideo 38.
cu[m] [illegible] 55. lei qui patro[ni] 59. lei [illegible] 80.
infra [illegible] lei quidam [illegible] 20. cod. de iure [illegible]
lei tit. 6.° cod. de impuberis. lei unica § [illegible]
[illegible] cod. decadosti [illegible] faciunt. Iura [illegible]
[illegible] 38 ff delegatis 2. lei nemines 4 lei [illegible]
[illegible] lei [illegible] 58 ff delegatis 2.° [illegible]
legatario n[on] [illegible] propanie legatus [illegible] [illegible]
parte reputare

Ut q[ui] [illegible] exempto [illegible] receptus n.° 3
adversus [illegible]. lib. 3.° [illegible]
[illegible] tit.° 6.° [illegible] Regia
ley 30 tit.° 9. Parte 6.° [illegible] ad [illegible]
Paulus. Cumanus — Angelus. Gassones [illegible]
[illegible] Juribus [illegible] [illegible] Barto[lus]
[illegible] n.° 3 ff [illegible]. [illegible]
[illegible] 22. [illegible] n.° 4 delegatis 2.° iden. Gasp[ar]
in [illegible] unica n.° 22 cod. [illegible] partes Tamdiu Tendary
[illegible] tractatu. [illegible] materie 8
et 9 Petrus [illegible] lib. 4.° [illegible] cap. 4 n.° 5

22

Memoratam ... 6. 3 ... progressu § 23 n° 40. ... Rom. ... cap. 6° et de iure accrescendi ... cap. 2 et 3 ... ad ... rubr. ... qui ... et in. 7 Commentariorum ... primo ... testamentorum. ... 3 et 23 Antonius ... cap. 20 et ... dec. 3 ... § n° 45. et decad. 32 ... et 2 ... cap. ... et n° 7 ... Richardus ... cap. 23 Antonius ... camararum ... n° 27.

... magis harum legum ... sufficat ... duarum ... proximi

n° 4 ... dubitandi ... heredi ... totalis ... hereditatem ... cuius partes ... Respondetur ... totius ... accrescendi ... cap. ... 28 § ... heredi ... hereditatem. Respondetur ... et ...

n° 5 ... testator ... heredis ... partibus ... heredibus ... partem ... argumento ... 30. § ... et testatoris ... hereditas ...

De [illegible] hereditate

a vobis verbis contra [illegible] in hac nostra

l. 2

Videre [illegible] [illegible] [illegible]

variis [illegible] ad [illegible]

[illegible] docere [illegible] [illegible] qui

[illegible] in [illegible] [illegible] [illegible] [illegible]

[illegible] fuit [illegible] [illegible] [illegible]

[illegible] [illegible] argumento [illegible]

[illegible] quod [illegible] heres [illegible] defuncti repre-

sentat [illegible] imaginaria [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] de [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] proparte

representatur et proparte non [illegible]

[illegible] [illegible] [illegible] naturam [illegible]

[illegible] [illegible] de adapsione [illegible]

natural. [illegible] [illegible] pro parte [illegible] repre-

sentetur [illegible] hereditatem [illegible] hereditatis quequidem

[illegible] pro parte [illegible] proparte [illegible] pro

parte [illegible] proparte repudiet [illegible] simul

[illegible] nostra leg. 2a [illegible] partis nostra

leg. 2a [illegible] [illegible] [illegible] [illegible]

et d. lib. 2 de iure accrescendi cap. 2. plures [illegible]

ab [illegible] [illegible] ubi supra

[illegible] Ratio ex eo

[illegible] videtur quod

non [illegible] [illegible] Geres [illegible]

[illegible] hereditatis [illegible] [illegible]

[illegible] 2 et [illegible] [illegible] habet

[illegible] representationis [illegible] datur

Cum in parte omnissa quo heres, b, substitutus admitti potest et per illum defunctus representari habeat leg. 2 § fin. ubi Cu verro ex parte vestigulo ad hunc notat dicit ff de testato[rum] ... recepta communiter ... vel quo de retranty lib 2 § 32 ... n° 90 ... materny 3a parte n° 79. ... in Rubrica de ... n° 89. ... heres qui ... ad substitutus habet ...

d. ...as 80 ... Jolij 79 ...

n° 8 ... Quod ... quam ... ratio ...

Plures alli ... omnes ... deduca ... Conveniens ... testator ... propter ... testatus et propter intestatus ... nad ... testator ... ff de regulis juris et hanc rationes, tamquam ... Aretinus et Jason ... Jason ... n° 19 ... n° 10 ... Duarenus ... libr. ... lib. ... cap. 28 n° 32

n° 9 Sed adhuc ... in ... quo ... ratio ... paritur. aquo ... utraque ... defendi ... heredi habenti ... heredem ad substitutus ... respondere ... ita etquo heredi b. substituto ... permittendus ... et ita ... ad ... conventures contra ... Justinus ... neque ... quo ... heres ... peremptores

... substitutus

Deau quitrem ordinarie

circa huius statutos eam partem. non acciperemus
nam iustitia et posse contingere in hoc periculo
in iminenti nostri heredis occurrere adire argu-
mento ut supra in versiculo ut tamen ipse
ff de in integrum restitutione

Quod tamen utraque ratio non
ad tanti est illi videtur impugnari
quia imminet sicut regula de[illegible]
non contrariat ex textu in lege cum eo vero in 20 versi-
culo cum ex parte ff de minoribus [illegible] et tamen
heredi ut illi non potest argumentum adire lectio certamus
l. 8 § Julianus versiculo quod si alter mora ff
eodem. igitur. Regula juris legis et
2ª antithesis etiam impulsione ab universitate
[illegible] generalis ratio atque ita generaliter
intelligenda in utraque sucessione argumento l. non dis-
tinguendus cum ff de receptis arbitris l. de pretio ff de
judiciale regnatione observant autem et [illegible] versi-
set huic obiectione criminis in lege unica C. quando non
pertinet parte sed in hoc casum non vertitur periculum res
tacite intestate nec verba dicte legis sui nostram
locum obtinent quo supradicte decedendi rationes
non concludunt

n 22

Ad vero tamen his considerationibus
satis fieri potest existimo et pro videndum quod et
similes possit diradere propter et tacitis idtamen
eius favore ex introductus quocies ipse expedita
qio veniet adquisita pro eius damnum retorqueatur
lege quod favore C. de legibus retorqueretur ut
erat ei ipsi statuta heredis [illegible]

pro parte adeire unde cum in dicto verso qui altro ita constet militem noluisse uti privilegio militari hereditatem repudiatam quod coheredem pertinet ne alias iniuria defunctus miles afficiatur si repudiata pars eius nomine ad coheredibus possideretur ubi displiceret. § 1º institutionum quibus ex causis manumittere licet § 1º de qualitate et sic ubi constiterit militem voluisse uti iure communi non poterit heres per repudiationem partis efficere ut et ex testato et intestato miles decedat ley reduobus 37 in fine ff de testamento militis dictae lex dictae lex iuris nostri quae in hoc casu subsidet § de rebus iuris

Nº 12 . 2e consideratione fit satis clarius Bertamus quod licet creditores ab intestato succedant verba dicte legis iuris nostri non obstante manifestant et sententiam eorum conspiciunt non repugnantia quae datur inter testatum et intestatum etiam in successione ab intestato si desiderares quod possit quis cum herede et sine herede decedere quae inter pugnantia etenim si his quo ab intestato succedit partem tantum habeat pars ab eo repudiata poterit ab aliis etiam repudiari quae quem ad modum dictae lex iuris utrumque testatum et intestatum non admittit sic nimis lex non vincit quem pro parte cum herede decedere et pro parte non decedere factasi et intentione de testamentarium ad legitimam successione cum verbum et legibus sic accipiendum sit tamen legum sententia quae et verbis legem nominis 6 verso 1ª ff de verborum significatione n

Nº 13 Costat ex his supradictis decidendi rationes ac predictis considerationibus posse crede defendi nisi maior alia obiret quae facit sententia nostrae legis ex legatariis etiam conse

Corpore heredi

tendere inquit non datur inconveniens repraesentationes cum pueris substitutionis in § legatorum de institutionibus Ferdinandus qui periculum dicti legis jus nostrum cum legatum non agnatum per heredem resinung...
delictum maneat l. ubi 38 § cum servus ff de legatis primo at legatarius etc si in eo supradicte rationes obeant non potest partem legati agnoscere partem repudiare dicta lex legatarius 38 cum similibus supra in nu. 2 adductis. hac consideratione multi recentiores quos precessores ii secuti alia ratione traddiderunt ea nempe quod docet absurdum esse iure judicari eandem dispositionem pro parte agnoscere et pro parte implorare l. et si ex mo dica 6 § finali cum lege sequenti ff de bonis libertorum l. si ita 39 in fine ff de operis libertorum l. quinque num. 27 ff de administratione tutorum l. unica § is itaque ibi cum sit absurdum eandem hereditatis partem qui eadem agnoscere partem repudiare C. de caducis tolendis docet dd. Zericius in hac nostra l. in eodem articulo C. 2 pichardus n. 57 dicto l. 28 n. 18 re latiagometio l. tomo c. 12 n. 33 n. 4

in hac doctorum varietate ego existimo propriam huius rei rationem eam esse quam ex articulo supra retuli deductam ex identitate et unitate personarum defuncti et heredis, et enim cum ex dispositione et dictione juris qui in hoc natura imitatur heredibus et postea heredes persona defuncti representet et in eius loco subrogetur & ut haec unitatio et subrogatio fiat necessarie ut qui subrogatur natura illius in cuius loco surrogatur ... alia at illius natura erat individua et non

.02

...ibilis quod et nullus qui eum regat indivisivius et individuae esse debeat, et ... cum successio ... ducta per inpersona ... quae defuncto succedit reperiatur etiam in herede quipostea adibit ... variaret, qui predicta actione admissa magis potest ... pro parte representare et pro parte ... quam potest pro parte mortuus et pro parte vivus existere aut quod potest simul sed ... stare vere et ... quod natura inpossibilia ...

(№ 2) Ex hac ratione quae ut philosophi dicunt a priori est, quaeque ... et perfectior ... Baldo apelatur littera i ... commentariorum ... et alii ... ut ... ex ... demanant ... quod sit absurdum eiusdem hereditatis partem agnoscere, partem ommittere quae si recte perpendatur ex illa priori derivatur ... representat ... unica ... divisio ...

...

...

...

... querendum ...

loquuntur [illegible] Sforziquie namque [illegible] judiciis [illegible]
[illegible] cap. ex [illegible] 38 [illegible] Juris in 6° [illegible]
[illegible] approbans et improbans [illegible]
[illegible] n. audiatur [illegible] causa 27. ff. de [illegible]
curatoribus, l. 2. § 1. ff. quando apellandum sit. [illegible]
fuerit [illegible] rationibus [illegible] [illegible] modo [illegible]
modo [illegible] proposito [illegible] tamen [illegible]
[illegible] et [illegible].

[illegible] respondemus [illegible] n° 26.
[illegible]
[illegible] quo ad [illegible] eiusdem hereditatis [illegible]
[illegible] parte [illegible] [illegible] quia [illegible]
[illegible] cum [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] Deo [illegible] [illegible] heredes
[illegible] [illegible] [illegible] defunctus
[illegible] cuius [illegible] [illegible] [illegible]
[illegible] a [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] approbare [illegible] [illegible]
[illegible] omnibus [illegible] [illegible] hereditate [illegible]
[illegible] [illegible] satisfactus
[illegible]

[illegible] n° 27.
[illegible] [illegible]
[illegible] considerasset [illegible] hoc [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] alias [illegible] [illegible] heredes [illegible]

D

et legatario combenire quod nemodo ectus admi-
tat porcionem animadvertere debebant ideo legata-
rius non convenire quia singularis succesor successoris
[illegible] hoc est in indibiduitate dispositionis et
judicius heredibus similes sed sicut enim heres una he-
reditatis parte adeundo videtur in asse pro herede
gerere l. si ex asse 10 l. si solus de a[illegible] quod et sic ad-
eundo una portione omnem adquiro infra hoc tit. sic
similiter legatarius si voluerit rem legatam aliqua
ex parte esset sua tota adquirit dicta lege sequi
§ de legatis 2° quod non aliunde demanat quam ex in-
dibiduitate dispositionis et judicii testatoris quod licet
legatarius singularis successor sit in toto et de in toto
improbare debet dicta l. nemine 4 dicta l. grege 6 de
legatis 2° nisi sibi contrarius existat et ob id audien-
dus non sit dicta l. in causae de procuratoribus l. 2 ff. l. quando
quando apelandum sit improbant cum manus in dicta
l. nemine ubi jason n° 1 gomeçius tomo c. 12 n° 33.
Oseandius lit. e lib. 8 c. 28 licet aliter exponat duo
nu.° 18 adelus in dicta l. legatarius de legatis l. inferturex
superiori vera decidendi ratione solutio dificul-
tatis supra n° 4 proposite ex regula legis que
de tota ff. de rei vendicatione quae procedit in
parte hereditatis quae militat in testacum pro parte
defunctus representare non possit pro toto at enim
possit ad considerationem deducta ex eo quod testa-
tator per partes hereditatem dividere non respondetur
non bene ex eo inferri testatorem voluisse prestare
licentia heredi adeundi pro parte nan denominatio
partes illius rei quam pro una testator mandit

in divisione, ut uberiore declaratione demonstrat et eleganter Paulus docet in l. gallus, 36 § 2 de legatis 2° quin et si velet testator predictam licentiam concedere, non posset, nam etsi ei necesse sit in quas velit partes hereditatem dividere l. interdum 13 § 1 ff de heredibus instituendis § hereditas institutione eodem debet tamen de tota hereditate disponere cum non possit in quibusdam partibus heredem scribere et in reliquis ab intestato decedere adeo ut si in partes tantum aut si ex fundo cum heredem scripserit detracta portione l. fundi mentione in toto asse heredem efficiatur l. 1 § si ex fundo l. si quis 33 in fine ff de heredibus instituendis dicto § hereditas versiculo et si nemo [illegible] minaliter heres [illegible]

[illegible]

[illegible]

[illegible] n° 19

[illegible] at [illegible] 30

[illegible]

[illegible]

omnibus [illegible] [illegible] alterio eradit[illegible] [illegible]
utilia ynfert 2 tomo [illegible] [illegible] [illegible] Pag.
[illegible] 6 parte [illegible] cap. 3 [illegible] [illegible]
[illegible] Refert [illegible] 2 tomo [illegible] cap. 8 [illegible] 29 n.o
222 [illegible] [illegible] tit. 18 [illegible] [illegible] n.o 27 [illegible]
32

n.o 20 [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ratione [illegible] [illegible]
[illegible] [illegible] ex [illegible] 53 [illegible] [illegible]
[illegible] acquirere lei [illegible] 67 [illegible] [illegible]
[illegible] [illegible] infra [illegible] lei [illegible] 26
§ [illegible] lei [illegible] separatim 30 ff. de [illegible] [illegible]
[illegible] tit. 6 [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] 20 [illegible] [illegible] [illegible]
[illegible] [illegible] & [illegible] [illegible] [illegible] [illegible]
omnibus finibus ex causa [illegible] acquirendi [illegible]
portiones in [illegible] par [illegible] [illegible] [illegible]
et hanc antiquorum et [illegible] [illegible] sententiam de
[illegible] ex [illegible] [illegible] Bartolo in Repetitione leg.
[illegible] an. 59 ubi Jason n.o 122 ff. de legat. 3 Romano
et Odofredo [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] n.o 2 [illegible]
[illegible] [illegible] [illegible] cap. 19 Duareno de
[illegible] acquirendi lib. 2 cap. 2 et 3 Antonius faber de
[illegible] [illegible] [illegible] de [illegible] 2 [illegible]
[illegible] Donellus lib. 7 commentariorum cap. 12 ubi [illegible]
[illegible] Plures Refert qui [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible]

so[mm]a tradita a sienchaca
et tr[ig]inta s[e]ng[u]los pro vera et
[illegible] cuius Petri Rojo ex suis diis [illegible]
pe ex ereditary [illegible] [illegible] defuncti Romae
[illegible] nal[is] ex ereditas et iure defuncti [illegible]
[illegible] 3 2 § 2 de ereditibus [illegible] [illegible]
ditas 62 ff de adquirendo [illegible] minus [illegible]
[illegible] amorti[zare] [illegible] impre[ssi]o [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] individua [illegible] § quicumque ff [illegible] ereditary
[illegible] [illegible] in fine ff de rei vindicatione
[illegible] [illegible] [illegible] parte defuncti. [illegible]
representare [illegible] aliquam partem defuncti [illegible]
omnes [illegible] iure accrescunt [illegible] qui ex [illegible] 23 qui
semel cum [illegible] supra adaucti ex [illegible] qui plures heredes
instituit [illegible] voluisse videtur ut deficientium portiones illis qui
adierunt [illegible] quantitate substitutis [illegible] 62 § [illegible]
[illegible] ff de legatis 2o licet [illegible] substitutiones hoc vulgaris tacita
[illegible] pupillari expressa et pupillaris tacita [illegible] vulgari ex
[illegible] [illegible] [illegible] hoc iure 4 ff de vulgari [illegible] final. codice de ins
[illegible] [illegible] Cod. [illegible] [illegible]
[illegible] [illegible] [illegible] ex [illegible] ab testatore ut
[illegible] iuris [illegible] iuris [illegible] et imperatoris [illegible]
[illegible] [illegible] voluntatis [illegible] testatoris [illegible]
[illegible] [illegible] [illegible] ut alias [illegible] [illegible] 202
ff de [illegible] et [illegible] unde voluntate tacita
[illegible] testatoris [illegible] iuris accrescendi causa [illegible] docet
Duarenus [illegible] accrescendi c2 licet [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] c22 lit B

n° 22

Ex quo notandi [illegible] aliqui cum Ant.° Fabo de heredibus pragmaticorum decadem 3 herrore in fine affirmat voluntate testatoris nihil ad iuris accrescendi [illegible] operari eo fundamento moti quod in testamento militis solaceius voluntas expectatur [illegible] cum sequentibus ff de militari testamento principium institucionem eodem at in eo titulo non est locus iuris accrescendi nihil voluntas disponentis operatur nam licet testator nominat ius accrescendi prohibere recta imbeniat viam ut propriam representet partem non nomine non debet ex eo tacita eius volunta[s] in iure accrescendi excludi ut non dificulter coligitur ex dicto § Julianus qui [illegible] non [illegible] facult[...] et que eo est [illegible] fundamento probatur nam institutione illa [illegible] si neque Ticius nec Servus heredes fuerint [illegible] sustituo Ticio tantum ad eum ad partem servi [illegible] [illegible] [illegible] ex voluntate testatoris dispositionis legis vocatur et non Ticius quia ex iure accrescendi hoc est ex dispositione tantum legis ut fuerint veritatem in hoc casu Ticius pro ferte caso ut late probat Bartolus in repeticione legis 2 n° 46 ff de bulgaris recepti communiter capitat Dr. [illegible] ibi n° 52 Jasone 67 Ripa 28 et [illegible] in repeticione legis re coniunti n° 22 de legatis 3° Covarruvias in [illegible] n° 70 [illegible] de impubere Mantica de coniectu[ris] lib 4 titulo 10 n° 25 Gometio 1 tomo c 3 n° 25 [illegible] recte exponunt [illegible] qui 2 decisione 2° ff [illegible] de [illegible] [illegible] procedere quod testatoris [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] iure accrescendi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] voluntatem testatoris [illegible]

que fuit Cayus ut ecc. ingacrescendi indugeret ne probante tutatore, repugnante et reprobante non. ac n. maxij reparatur naturali et ssibili ratione quare eo unnis et eiusdem dominij individuaut proparte tanqu aute. neno posit qui inter tales teneatur. in § ff pro exhibito per Julianj 21 ff de furtis.

neq ad dett. milites sup ductum est quequam facit. n° 23

aliqua quam ad deb voluntate. prebatigata. nisi f. ssibus confirmet anytamqua. ad adductum est generaliter neprosedi sed incertantum. Cayu inoue miles praeproelegia uidetur aliqi si de eius concretumata voluntate eonsinenti. volens erexi adeneun. pariter omittam acrgere. etiam. inetus tt. ingacrescendi dat. inspaveram interpretatione. cui omissa ratione emendatione. de com. n°, de cade 72. error 20. inly l. eodle dett. milites. facit l. et lex ex militari. 24. § fin. ff eodem. ubi ulpianus deco he ad eam. cui castrensia ... namilitari, pagani cam pertinere ... militi ignorans pervenisset ... de castrensi sequitur tutatores fuit ... ex eius ignorancia aperte ulpianus ... paganica ... dominico ... heredem ex conceptis ... castrensibus ex certa ... dispositione castrensis. ad litteram ... ex con iecturata voluntate militis qui ... constat ... de quanquam ... dett. militis ... legis ... praeter eius voluntate ... ... ulpianus dixit ... ... ff eodem.

facit et insuper ... innitt. militari generaliter n° 24

Iusacrescendi excludit tam ... ex
... ... totam
... ... eryt tt°
Iuri accrescendi ... 37 ff de militari
tt° ... et ... in (?) suppositis ...
arg. ... § 2° versiculo quod ... ubi ultima
pars ... creditoribus ... neque alibi
... nomina ... gradu
23. ff qui in fraudem creditorum. ... voluisse
... partes ... accre
scere ... consulti ...
... consedit ... ex quo ... Bayro ... qui cum ... aquisisso
... quoniam ... faber de erroribus ... 72 ... errore g°
... militum ... potuisse ... incredituram ...
... pro ... argumento legis in
... 42 ff de ... ... legis
cum ... 29 ff de militari tt° et ideo fabore com
ne in damno ... Iusaccrescendi ... cum
... in hoc ... considerari ... ve
... Iusaccrescendi ... voluntatem
... superiori ... in suppositis ... legis ... de
tt° ... ex quibus liquet Iusaccrescendi ... ex lege
tantum ... sed et ex ... testatoris vo
luntate ... ob rationes ... quas ... ad hec
nostra ...

n° 25 Praeterea ... 3° infer
... ad ...
... 52 § qui ex parte infra ... tt° ...
33 ... ex quibus sententia ...
... declarat ...

nam tantum in casu, quo fuerit, quod tempore alliquis ex ipsis pure excaeris ... verum in casu quo ex testamento institutus sit pure ex aliis, remisse sub conditione ... conditionalis ... ex ... institutione ... exige ... ratione ... ... quod ex parte ... solus heres futurus omnimodo ... inteat ... conditio ... ... defunctum representare debeat ... ... institutus ... ... institucionis ubi Farinolus et ... ex parte et reliqui doctores communiter.

Resolutio tamen huic ... difficultatem ... ad hoc ... alliqua ... ad hoc ... ex parte ... videatur ... ... impletionem ... ... institutus ante quam conditio ad impleatur ... heres ... ... conditionalis ... ... institutio ... ex parte ... habeat in conditionalem parte ... institutus ... alterius consulto ... ex parte ... solus heres futurus omnimodo ... videtur ... ... integram ... ad ... tamen ... ex qua causa hoc ... effectu ...

y implemento conditionis pars conditionalis ad
cuius ... legato relicto sub conditione que
aeque omnino ex natura l. n. ex natura legis
consulens dixit in l. a ... § ... ff. de ... lega
... quod ... alterutrum ... omni-
nimodo debebatur

Denique facit contra opinionem

n.° 27 ... Resolutiones ... si institutus
in parte pure et in parte sub conditione adeundo
partem puram in totum fieret heres ... simi-
liter repudiando partem pure datam repudi-
aret etiam partem sub conditione ... cum
contrarietatis eadem ... ratio hoc tamen affirmare
absurdum videtur ... et illud maior patet et minor
probatur ex eo quod repudiatio tantum operatur ...
... quod delata est ... pars conditionalis ante
conditionis implementum ... igitur
repudiatione ... l. ... 23.
... l. ... 18 infra ... l. ... ex con-
... 45 § si sub conditione ff. de legatis 2 ...
... l. 3 ... roberto
primo animadversionum cap. 30 ...
... cap. 8 Donelo septimo commen-
tariorum cap. 2 et Osualdo ibi littera A ... igitur
...

n.° 28 ad hec difficultates ... discri-
... -mine constituendus est inter eum
qui institutus est pure ex se ... sub conditione ... et inter
eum ... institutus est ... dato ... instituto ...

casu resolutio sup tradita profecto insequendo non inferiensie ratio ex eo eruenda e qd semp sub conditione relictus cuj sit [illegible] datus in e sedit [illegible] et adquiritur alterio secundo inquo quj pure instituitus e. nam cum conditio [illegible] [illegible] quodam [illegible] credesse, actu [illegible] [illegible] [illegible] [illegible] cuj omnino, pure [illegible] instituus, ex ipso heres futurus sit qa [illegible] [illegible] ita de arculo, instituendus [illegible] conditionalis [illegible] simul cuj [illegible] ex [illegible] [illegible] adquirat. Itterus in 2.° casu cum [illegible] [illegible] partem conditionales, [illegible] [illegible] [illegible] conditio ex ipsi [illegible] per [illegible] adsus [illegible] qui simul cuj instituto personam defuncti representabit, lu site solliz 27 [illegible] [illegible] heredit, instituendus

Neq. hac[illegible] [illegible] resolutio n.° 29
[illegible] admissa, quia quam [illegible]
qd ad hoc [illegible] conditionaly qd [illegible] datus in e, [illegible] adquiratur causa adquisitionis precedere debeat [illegible] [illegible] modo inquo omissa doctrina [illegible] [illegible] [illegible] cap. 27. vere affirmandus e legatus [illegible] induci, contrariis conditionibus, relictus [illegible] [illegible] [illegible] heres conditionale [illegible] in favorem cui [illegible] [illegible] minus gravetur et legatus quid [illegible] in [illegible] si contingat, [illegible] [illegible] alterutrum casus exsistat [illegible] ante mortem [illegible] legatarius decedere; [illegible] heres [illegible] [illegible] de conditionibus, [illegible] demonstratio [illegible], quia [illegible] cuj [illegible] [illegible] [illegible] ex [illegible] conditionis impletmentum, ex quo nullus potest effectus resultare [illegible] [illegible] heres [illegible]

-3

et nulla in toto instrumento fingerentur sic et stipulatio sub duabus contrariis conditionibus comfirmata pura esse dicatur l. si Stipulator § qui sub conditione ff de conditionibus quae tamen et in reliquis contractibus sub duabus contrariis conditionibus scilicet ratio quia huiusmodi ... conditionalis ... naturam ... l. 8 ff de periculo et commodo rei venditae ... conditionalis instrumentum de verbis ... illustrant ... ac verius et fulgosius ... necessario ... lib 2 ... cap de novatione pagina 386 ... de retractu § 2 ... n. 45 ... 2 tomo variarum cap 14 n. 28 ... commentariorum cap 18 ... cap 11 ... qualitatis ... integerrima ... sub duabus contrariis conditionibus facta ... sequitur ... n. 28 ... de instrumentis.

n. 30

de declaratione

Verum medio singulari ... illius dubii conclusione ... contradictio ... partis integre ... repetitio ... inducat. In quo ... clara ... cum ... cum ... de ... conditione ... quo ... repudiatio ... ex ... in tractatu ... et verbo ... valdus ... Paulus ... barbatius ... tractatu ... n. 3 ... in speculo titulo 3 q. 33 n. 63. ... in notatis

Ubera A. lib. 7 cap. 7 Ribera in additionib. ad Home
sius Urera q. 2 tomo cap. 20 mon. decisione tex. in
simili parte 76 § 1 lu. Mesolus 8. imprimis respondetur supra
nota

Contrarium sequuntur haud
deradentur ab eruditis angelis n° 31
immoda Alexander et Jason in hac nostra l. 2 domi
lus in q. quidam eiusdem c. 20 cod. de jure deliberandi
plures fidelis a Ribera. sig. et Valadolid impractuss y
questione 722 et probatur ex eo qd contrariorum eadem
est ratio pro ..... universitatem dei qui est similem.
hac materia l. tex. in l. si quid 4 cod. de repudianda he
reditate at qui adit unam partem, severas adire videtur
l. si ex asse 10 infra hoc tit. q. qui repudiat unam severas
repudiare intelligetur. ulterius qui fatetur consequens sed
fatetur fatemi etiam adiens. sed qui repudiat unam partem
cum plures posit adquirere omnes repudiasse .... re
dicitur argumento legis illius 77. infra hoc tit. igitur
denique pars hec expresse fuit decisione tex. in l.
si ex asse 20 § idem q. l. 10 ut ego patris hereditatem
repudiavero meam neque filii hereditatem habere possum ff
de vulgari et pupillari substitutione patris et filii 20 ff eodem.

et hac pidatur imprimis iura n° 32
reventa in e. ... mira
quibus contrarie sectatores nobiscum quidem
exponam tu ... hanc quam contrariam ... probatur
et ad tex. in d. l. si ex asse § 1 ad verso d. sig. l.
aequitate vir ... ab universorum hinc quod
libere legionem ... mutationem hinc etiam.

quo alterius eius professionem sibi persistem. utrosque an
. inducere ibi dicitur preceptor noster Richardus hic
cap 28 no 83. Id crescenta vulgari agione, religiosior
sententia fuit ibi duos tamen fuisse heredes institutos
primum ex duabus unciis secundum ex reliquis decem. et
primum vulgariter substitutum fuisse 2. Primus
duas uncias repudiabit secundus etiam suam portionem re
pudiavit ex quo factum est loquens in instituto dubitatum fuit
utrumque aditione de extantibus hoc est decem. uncias. pri
mus totum quia hoc est simul cum decem unciis reliquas
duas uncias quas repudiaverat consequatur ~~[illegible]~~
~~[illegible]~~ hinc dubitationis iuris consultus Respondet
et admonet i ex causa sustitutionis totam assem consequi
et sic melius potestate est ante quam adeat ambobus here
ditates admittere aut vindicare quod improbat possidendi
hereditatem vindere ita ut unam partem habeat ex alia
amittat nec repudiationis unius partis de alia sint
tragi ~~non~~ possit. quod cum subaudiendum primo con
petat ex institutione et ex substitutione in eius ente
potestatem adeat an ex hac aut ex illa. et sic quam partem
omittat aut vindicet. una tamen aut ita alia illa
acquisit ita ex domino bartolus in hac nostra lege et
inde lege sive ex parte Cornelius in lege quidam elogio
ff. de li. cod. de haeredibus liberandis ubi lex ditis

n° 33 Qui satis sapere fieriati de
ficultatem quam aliquis opo
nere poterat ex textu inde lege sequitur. cod. de re pudianda
hereditate in postea quam est aditionis possessione quam re
pudiabit tamtam quod credit probabiliter alius Tal.
ternas oblatione nam tunc fit et repudiet eius heredi

tute que adivit habeat que repudiavit justa tx in l cum hereditate ss. infra hoc tito

hec tamen ex principio licet colore habeatur videatur speciem tex indicta l. situa ex parte in principio et § 1° ad aplani non poterit tunc ex verbis illustres infine principij ubi de merito pertinet tunc ex proposito in dicto § 1° ibi qui ex institutione adeundo Ticiane partis aditurus parte omnes que verba duobus tantum heredibus obvenire nullo modo possunt nam tunc uno repudiante alter qui institutus erat solus heres maneret et proinde adeundo ex institutione heres fieret nec necesse foret ut juris consultus exprimeret quod ad eum solum sextantem expectaret nisi et alter fuisset qui et sextantis partem peteret rursus Ticio repudiante alter coheres ei substituitur non partem Ticiane partis sed totam Ticianam partem ex institutione habendo habiturus erat ... N 34

hic igitur omissis ut tota jurisdictionis sententia legum indicta l. situa ex parte in principio et in § 1° percipiatur venus cum acurtio ubi et hic qui meliius censerent arbitror tres fuisse heredes scriptos 4 3 et 3 4 ex extante hoc individualiter unciis sub conditione sin abs ex asse venisset 4 in alio sex tante pure 3 in besse hoc in 8 unciis huic tercio substituti fuerunt 1° et 2° 3. portionem suam repudiavit 1 antequam sua institutionis conditio impleretur et 2 adierunt ex causa substitutionis impleta postea fuit conditio dubitavatur an 1 necesse haberet sextantem ex institutionis causa adiret an vero sufficeret additio ex causa substitutionis ad hoc ut sextans ad eum expectare et tunc 2° in esse a legibus haberet sive ex institutione 1 non adisset cui dubitationi juris consultus respondet asserens sextantem ad 4 solum pertinere et nihil referre an ex institucione 1 adierit an ex 1° institucione N 35

cui utrique causa una aditio sufficiat.

Sequitur iurisconsultus eadem fere specie relata in eo tamen diversa quod 2º in substitutione ut in priori in parte cum 2º et 3º cui heredes scriptus. Tamquam in eo adverto quod in 2ª parte proximus non adiverat in primordio se heredi satis aditione omiserat hoc est neque adquisiverat neque repudiaverat licet ommittere hereditatem sed eam repudiare liberum sive partem quod qui facto reliquas partes abere non potest [illegible] post are [illegible] tertia ex parte non 2ª adverte [illegible] quidam [illegible] duos [illegible] quaestionem fuit autem adeundo primus ex institutione post repudiationem tertiam partem suae portionis hoc est quatuor uncias esset habiturus nam [illegible] est unam partem ex institutione aliam ex substitutione videbatur dicendum prius debere adire ex institutione et postea ex substitutione sed quamdiu 3ª infra hoc tempus [illegible] iure competit quo imperatori parte ex [illegible] in sequendum [illegible] aserens nihil interesse an ex institutione prius adierit autem ex institutione nam adeundo ex institutione haberet portionem ex substitutione et adeundo ex substitutione haberet portionem ex institutione et est in potestate heredis quam partem vel admittere vel vindicare. Quod adeundo vel repudiando ex causa institutionis videbatur adire vel repudiare ex causa substitutionis et e contra [illegible] possibus [illegible] illam contrariam sententiam quam contrariam confirmat

sed [illegible] contra hanc interpretationem ex ver[illegible] [illegible] [illegible] ex partes [illegible] ommisserit ad[illegible] [illegible] quae verba indenotant additionem [illegible]

omissa, hoc est parte hereditatis neque aditae
neque repudiatae. Sed possesset ita [illegible] ex nominanda [illegible]
omiserit ad portionem, illis repudiantibus portionem eo
cologare [illegible] [illegible] ff. de suis et legit.
[illegible] credito, cui ab[illegible] [illegible] [illegible] lib. 23. de
verborum [illegible] [illegible] verbo omittere, [illegible]
fundamento iuris [illegible] quae [illegible] [illegible].
[illegible] [illegible] [illegible] [illegible] in directo
[illegible] [illegible] [illegible] in dubio [illegible] prima institutione
et [illegible] ad Bartolum [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] quae [illegible] [illegible] [illegible] quae [illegible] [illegible]
repudiare partem ex causa institutionis et [illegible]
ad mittere partem ex causa substitutionis [illegible] [illegible]
in dubio quia in prima institutione adeundo heres ille
possit [illegible] in eam partem hereditatis aut
admittere vel [illegible] [illegible] [illegible] ad [illegible] [illegible]
itionem possit [illegible] tam ex prima quam ex secunda institutione
adire. Diversum tamen est quod adeundo ex prima institutione
heres ille [illegible] quod [illegible] [illegible] ex ea causa partem
declarata [illegible] supra [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
quam partem aut admittere [illegible] aut [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] non sicut in priore [illegible] parte
[illegible] quod adeptione facta ex institutione [illegible]
quod facta institutione quae [illegible] [illegible] postea
desistr sic in 2a parte [illegible] docet repudiatione
facta ex institutione censeri quoque facta ex substitu-
tione et sicut ad utraque causa una aditio suffi-
cit ita ad utraque causa una sufficere debet

debet repudiatio et hec sup dictorum verborum clementis
adictione prime traditam expositionem retineas verissime
Saboleni sui 4o quaeret ipse nostram sententiam affirmat
rursum etiam quod docet repudiata vna parte ex causa
institutionis in posse que amplecti partem que portea
defert ex causa substitucionis vel iuracionis eadem est
ratio et sicut vna aditio ad vtraque sufficit dicta l. sella
& x parte sic similiter sufficit vna repudiatio quod et ostendimus
in nobis edicendis infra nº 39

nº 38 Oblatet hanc quam tenemus doctrinam
atque altera parte adicitur in dicta l. si solus 80 in
principio contra hoc titulo vbi paulus iurisconsultus
docet institutum habeat in posse vna parte omnino
titere quod et idem procedere docet casu quo quis aliis multis
heredibus et plurimis partibus institutis manet in
hoc casu adeundo vnam partem totam hereditatem adquirit
quirit nedelata sit igitur si vna parte adita reliquas
quis adire videtur vna parte repudiata reliquas repudiare
pudiare existimabitur cum inter adictionem et repudiationem
ationem nulla differencie ratio posit assignari
Vt sepius ea supra ex audivimus manet hesis
comprobatta sententia eorum qui existimarunt repudiatione
diatione vnius partis et alias ad trahendam in fine
et satis facitur priori speciei quando nempe quis
pure in pluribus partibus heres scriptus fuit.
~~pure in alia~~ quo ad 4 quod in vna parte
pure in alia sub cedictione heres scriptus sive in repudiando
pudiando parte pura videatur repudiare conditionate
nate in nostris nostros liquet imo tantum dificultate
tate oppressi plures questionem tam silentio dissolverunt

Bartholus in dicta l. utriae ex parte n.° 2.° vers.° oppositum partem affirmativam insinuare videtur hocque quod repudiata una parte adveniente porta additio ne possit institutus adire partem quae sub additione poterit institutus adire partem quae sub additione relictae cui quae repudiatam habebit in eius donatione possit experiri iura cum hereditate ss. l. qua nepotis 98 l. a tristo 99 infra hoc tit. l. si pupillus 79 ff. ad Trebellianum ubi siquis adit unam hereditatis partem et postea ei advenerit alia et vinibiud exceptione aut totam hereditatem habere aut totam recedere igitur cum idem sit affirmandum in repudiatione hac in additione quemadmodum adita una parte si postea alia obvenerit poterit totam repudiare aut vendicare sic similiter una parte repudiata obveniente postea alia idem erit procedendum facit et insuper quod ad hoc ut pars aliqua repudiari possit necesse est quod delata sit l. hic qui heres § 3 infra hoc tit.° ubi additionalis ius ante additionis implementum delata dicitur ... n.° 4

Contraria sententia et iudicio propositioni magis idonea et heredis voluntati magis consentanea videtur hic enim si repudiata una parte adveniente postea additione alia adiret contrarius sibi ipsi existeret dum repudiando nolet ad quirendam velet defuncti repraesentari quae tanquam pugnantia in eadem hereditate fideiret ad mentem ... nec quod in integrum opponitur. Ulterius adiiciebat eadem heredis voluntas iuxta iuris dispositionem nam quoties adit unam partem dicatur nec additio sufficiet ad partem

et conditionale impleta et rea conditione l. si tua ex parte 76 infra hoc tit. igitur et similiter repudiatio partis pure vide[bi]tur sufficiens esse de jure ad partem conditionalem impletam postea conditione l. si tua ex parte 76 infra hoc tit. igitur et similiter repudiatio partis puri videbitur sufficiens esse de jure ad partem conditionalem. Nam et qui adit cum sciat alio abstinente se onerivum implicitus futurum ea conditione adire videtur l. adiecto infra hoc tit. sic et qui repudiat partem puram quodammodo repudiare videtur et admittat conditionalem conditione postea impleta denique facit text. in l. sicut § cod. de repudianda hereditate ubi quis omnem partem repudiavit ad eam amplius admitti [non] debet.

Ubi loci in ultimo facit Bartolus inter lectionem text. in dicta l. si tua ex parte nec picturas

n° 42

dies. Posito hic cap. 2 n° 8 ubi discrimen adhibet in [his] causis quibus sit integra de talis ex institutione quam ex substitutione ne hereditas delata sit et hinc aditio et repudiatio ex una causa sufficiat et earum quae in sit res integra quia pars ex institutione iam sit repudiata ut tunc altera pars quae postea defertur ex substitutione possit admitti. Nam nec in dicta l. si tua ex parte nec ulli usquam civili distinctio nec ipsi Bartoli nec iure attente videres. huiusdicionem in ratio tempore percepit.

Quare hac nos tenemur parte recenti... Bartoli

n° 42

dicta Iuris [illegible] ... procedunt quippe non eo qui adiit adita haereditate ... suo ingressu animus adeundi ... postea de ...

nullo modo considerari potest. et ideo merito aperu
dendis fuit statutum, ut ubi negatur suscipere possio
nem, simul acmittat accedere. Si postea fortasse desyderio
bonitatis agere, nihilominus ab hereditate
sed in illius an bursio pro postimo ad alia rotas hereditates
accedunt alia rota, animos cat de leg. cum creditrale cum
similibus. aut minorem sui cogeres fuerit sed extraneus,
vel minor. et postea quam ex parte heres fuit integrum
sed restitutus. ex conjunctione debitis severo. Vt est tam.
Ipsius videlicet parius omnis. suscipere in cogatur sed bonorum
in possessio creditoribus detur. quasi omissius docet cum hoc
quam cum illo qui accedens. quilibet ab sibi manet habenti
Cuius Bastio. ex eodem responso. n° 43.p

videtur quod ex proprio jure debentur
etiam futurum ad cogere. quin nisi in negatur
heres esset nec adue se immiscuisset abstinendi jus
haberet. et quidem ex propria voluntate. Ut lib. 22
similiter tra hoc adeo. tamen fecit parius dixit alio quare
pendebit ideo jus habet. quaerens in simul esset restituere Cuius
heres iam adeo abstinere immisquit adeo ut he-
reditates amplius amittere, nisi nisi reuiscebit
restitutionis. eo quod magis est sub cumulo inde quod dixit
de suis hereditatis. numera expulerit nolit in totum, cogitur
possessione. itaque committere sed cum per inde, retinendo.
Cum habeat ut cogeres in fuisset restitutus et eo amplius.
hereditatis quod restitutum habere. integra gloriam
et creditam suspiciens bene nisi ut ea gratia expendit
aut ferretque rationem. similiter supra de eius est
ipsis notandum. ut in omnibus tabulis deeretibus.
decade 50 errore 9° n° 2° ex quibus primum fo

fundamentum in fauorem paruolum

nº [illegible] ad sequendum. Respondetur
[illegible] patrimonium adire, vel repudiare ta
liter id quod admodum ad hoc sequitur habeat mysterium
eum l. coparentis sint de tabul. hic ypolitus §o §2º
infra hoc titulo, ita vsimiliter ad hoc ad quod respondeo.
Cº eo l. si qui heres 13. infra eodem, vbi expresse paulus
comprobat, et l. ex parte 28 infra eodem, vnde
quando mortuus ex qua parte pure partim sub condi
tione institutus e. adeundo partem puram ex ase
heres fit. vel cum heres §2 § qui ex parte infra
hoc titulo, et ibi nus supra nº 29 sic et eodem modo qui
repudiata hereditas partem repudiat in totum ex heres intelligitur adeo
ad adpendente postea condicione, non beneficio aliqua ratione
institutionis. dicta l. sive ex parte in fine infra
eodem titulo ibi vindicatoque impotestate mea est, qua parte
hereditatis erit admittere vel aut vindicare. nec
tamen enim voluntate elius quicumque partem puram potest
adquirere eam repudiauit, talem fuisse ut si conditionalis
purificata esset, eam expresse casu repudiasse et ita licet
fateamur quod ad hoc ut hereditas seu pars eius possit repu
diari necessarium sit quod delata supponatur et quod pars condicio
nalis non delata tamen ex voluntate heredis repudia
nte ex parte pura colligimus non bona repudiatione purificata
postea additione necessaria non est quemadmodum affirmamus
non bona additione vindicaremus, in ea qua partem puram adiuit
purificata postea alterius partis additione d. l. sive
ex parte infra hoc titulo.
nº 45 Verum haduc subtiliter instanter etiam
vis in hac de qua nostra est summo specie multo modo.

supradictas causas adeundi nempe et repudiandi fore distinguendas quando quidem additurus causa ut quae testatoris voluntati faveat adiuvanda repudiationis vero utque in testamento ordinata non destruit cohartanda et restringenda est argumento L sicut quidam 29 ff de liberis et postumis juncta L 1 § si ex fundo ff de heredibus instituendis et sic per in hac specie aditionis et repudiationis distinctione est unde debet ut qui adiit unam partem ceteras ammininistrare neccessarium ut scaevius in hac nostra L 2 ex cuius ultimo docet quae sequitur Cumanus ibi numero finali Bartolus in hac nostra L 1a numero 4 nostri pichardus d c 20 n 86.

Nam respondetur supra tradita benigna interpretatione in repudiatione non posse admitti sine L aut institutione aliqua et sine adeuntis voluntate quis enim repudiando partem quae vi ipsa reliquarum partium repudiatione ad se attrahit argumentum L nequis L 7 § ult. Lex illud 77. infra hoc titulo totam hereditatem repudiare intelligitur rursus supradicta non adiuvande repudiationis ratio admitti non potest nam si repudiata una parte ex alia postea heres admitteretur non potest partem repudiatam habere nisi per jus acrescendi repudiato jam jure institutionis at quoties plures portiones alicui a testatore defferuntur debet illas habere eo jure quo testator voluit hoc est jure institutionis L substitutionis L si quis heres 35 infra hoc titulo ubi bartolus illa enim heres ex causa quoque substitutionis quoniam in bito quoque ei accrescit portio etiam non exponenda in Leeg ex causa substitutionis sine nova aditione quae necessaria in ea cum in solido quoque ei accrescat portio sit nolit habere in contrarium ex eadem causa cum ergo

54

qui par iis requirat qua ex causa impuberi adiri non poterat. stat ipsa voluntate ipsa rerum ex eadem causa reliquas habitum, eas similiter repudiare sequeretur; etsi ideas habeat nulla venia ratio expositione sibe interpretatione adiuvare potest quibus ...as hec contra bartolus. Cumanus, Romanus et Fulgosius meac quas amiliqui Dnt Albericus etiam idem in hac nostra l. 2. Donellus in l. quidam 20 n. 10. codice de iure deliberandi et tandem consiat repudiantem unam hereditatem partem reliquas et sibe mere sibe sub conditione relictas repudiasse, sequeretur neque ad eas postea ullo modo posse admitti.

ex his notandum est etiam idem

n° 47 Bartolus Antonius Linda bicus Romanus hic. Donellus 2º tomo cap. 10 n° 29 noster Richardus d° cap. 28 n° 42 qui ex sup. traditis rationem ... nempe favorabiliorem fit adytio quam repudiatio. ... quidem plures partes heres excriptus ... quasdam ad ... quasdam ... repudiabit ... adiectionem praeferunt. Cum venimus per partem ad summum, et partem repudiantem, pugnantia causere ... eandem ... iure ... pugnantia. 88 ff ... perinde ... ... in hac nostra l. 2. quamdiu ... ... partem ... reditarie adire et partem repudiare. igitur si ... fecerit nihil agit nam facere contra legem formam infectum habetur lex indubiam codice de legibus neque ... enim. ad quis aut totam repudiet. aut totam hereditatem acquirat ... hanc partem sequendo adver... Albericus in hac nostra l. 2 n. 2. Donellus

inde lege quidam ... n° 20

Donde[illegible] [illegible] [illegible] n.° 2

Verum. expositis hucusque [illegible] n.° 48
et qua creditis cura et
[illegible] [illegible] [illegible] in [illegible] debitare
credito [illegible] in [illegible] [illegible] [illegible] [illegible] omissa
causa [illegible] [illegible] [illegible] [illegible] [illegible] omni
[illegible] [illegible] [illegible] et adire creditatis ex [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] argumento [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] creditatis adire partem [illegible]
[illegible] in ea [illegible] [illegible] [illegible] [illegible]
ata parte ex [illegible] adire [illegible] partem ex [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] aperte
[illegible] ex [illegible] [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] ex [illegible]
[illegible] [illegible] et [illegible] adquirere [illegible] in quibus
[illegible] habet omittere, [illegible] negat [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] in quibus [illegible]
[illegible] [illegible].

Primo [illegible] [illegible] respondendum [illegible]
ad omnia in ea argumentum [illegible] n.° 49
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] ex [illegible] [illegible] [illegible] quod
heredi fuisse [illegible] et [illegible] [illegible] omissa causa
[illegible] [illegible] [illegible] conditione et [illegible]
[illegible] [illegible] [illegible] [illegible]
fuisse. [illegible] [illegible] [illegible] causa [illegible]
[illegible] [illegible] 4. 8. [illegible] [illegible]
[illegible] [illegible] [illegible] que [illegible] [illegible]

18 — 31

legata relicta in institutione et si repudiata non tunc repudiata videtur ex institutione et sic ea ysontra potent heres adire ex substitutione absque ego invidetur Instituit quam adire si forte illatis. legata fuerit et § si proponatur. Vel quod autem 6 § plane ff eodem iuxta quam heres tamen a quam institutione adire potest et alia ex una sibe ex alia adeat vir non desiderio, rem ipsam non et ut iudicare cum acciderit quod faceret tali heres parte adire et contra ea quibus totum habeat reundiare. Sic argumentum de toto ad partem. Haec est ingens inconveniens cum adeundo totam ex causa, non ex parte. Conspicit in sequatur inconveniens quod sequatur adeundo partem. et omnibus manifestum est.

ad secundam dubitationem respondetur in lege si liberum quoque singulo qui

Nº 50 qd ff Servent liberorum respondere tunc illud ne iusta ordinarias iuris regulas procedere, sed potius ex speciali favore iuris patroni cui relicta fuerat debita portio ex ingenti deserti legata proprio servo libertate, consideratione legati mancipia respondet posse patronum debitam portionem agnoscere et legatum repudiare nec servorum forte de ipsemale meritum legato manumittere qd decreto motum patris quam ex benefacta iuris dispositione procedit. ut vide ut videtur ex lege ex hac parte. sed duobus 5º ff de legatis 2º leg. sibi legatario 22 ff de fideicommissariis libertatibus

Nº 3º aut vincula 6º hyp. de filiorum. Cod de caducis tollendis prosequitur iuris consultus in singulo quoque ubi casum exemplum proponit quod patronus ex aliis fiducialiter libertatis institutus et proprio servo gravatus libertatem praestare in qua dubitatur utrum posset debitam portionem agnoscere et reliquam partem oneratam omittere

[illegible]

et respondet posse substitutionem habuerunt. adsequeretur jadone omissa cum suo onere exspectabit venebit tum in tertiis reddimenti et manumittere verum substitutionem non habuerunt et patrono in ultibus sed venebatur acceptae haereditate. respondere autem suspiciere cum onere manumittendi servi igitur capaces substitutionem habuerunt ultibus patrono partem sibi debitam agnoscere in ipsa Iurisdict. ordinariam regulam secundum ex formis supra dicto de contra iactorum esse constat. exclusio praedicto venefurio in posse partem ereditatis omittere et partem ad quam rem codex supra dictus dicitur 25. Sapius constat

Quarto ex dictis infertur resolutio illius difficultatis amplius ex n° 51
semplo patroni posse legitimam sibi debitam in bonis patris retinere et reliquam ereditatis partem omittere et pro affirmativa parte sequentia facere videtur n°
2 qd filius in legitima creditor est sed primeria filius non publicum ll de relatione vomoem sed creditori cui de bitoris ereditas delata est. licet eam repudiare et creditum suum consequi quod est filio lapam quoque erit

Secundo facit dispositio textus n° 52
in l. contra imprimendis
32. cod. de in officioso test. cum consimilis Bell. 47 in
finem ll in 4 ff q. Parma ubi gravabamen omne
ex filii legitima ipso iure cessaverunt sed gravabamen
et vitia et necessaria creditariis impleant. Ber q. 4 in
fine ff contro velleanu neque recuperanda et vere cuncta
cognitus illius qui ultis ex se creatam talem sit q.
§ 2 ff de alienatione. Sanspi igitur

n.° 53 [illegible] ... legitima ... contraria ... [illegible]

Contraria sententia ... ex sequentibus videtur.

n.° 54 primo quod legitima ... [illegible]

sequendo [illegible] n° 55.
Considerat [illegible] retinere
tanquam ex [illegible] relicta, ab tanquam ab [illegible]
[illegible] audiri [illegible] proparte
[illegible] expropante non [illegible] nostre
[illegible] et 2 [illegible] et [illegible] quesita eas supradicta
[illegible] requirent [illegible] quod
[illegible] adire [illegible] ab intestato [illegible]
[illegible] in fra [illegible]
[illegible] omissa causa [illegible]
[illegible] n° 56.
[illegible] autorum [illegible]:
[illegible] n° 23 [illegible]
[illegible] paulus et [illegible] Jason [illegible]
[illegible] cap. [illegible]
sequendo [illegible] Menochaeus lib.
[illegible] 20 n° 212 [illegible]
cap. [illegible] in ultimo [illegible]
[illegible] lib. 4 controversiarum cap. 65 [illegible]
[illegible] cap. 10 n° 20 [illegible] n° 3
et 4 [illegible] lib. 7 cap. 5
[illegible] cap. 28 n° 51
[illegible] n° 57.
[illegible] optimum
nam filius [illegible] patris in [illegible] semper
et [illegible] paternae [illegible]

q° afirmandu[m] neq[ue] id contrat ex l[eg]. 1a C. sequentib[us]
Quinto — l[eg]. inter cetera ff de liberis et posthumis ex d[ic]to pro[cessu] in
substitutionis de exheredatione liberoru[m]. Seueru[m] cu[m] ratio
naturalis cu[m] leg[is] quedam tacita paterna[m] hereditate[m]
liberis ad dicat. quasi ad debita[m] successione[m] eos vocando
quasi creditor dissisir. ind[e] l[eg]. 9a. in l[eg]. cu[m] ratio 20 ff
de bonis damnatoru[m] in l[eg]. fin. §2 cod. de quiritano
fructioso in l[eg]. unica cod. de his qui ante apertas tabulas
ab ... Ga verbo rationib[us]. in l[eg]. si emancipata
cod. de ... et facit ... et verbo debita in
l[eg]. final. cod. de codicilis. Menarinus sup. Rodaricus ...
... in l[eg]. contra ampliatione 7 n° 45 cod. de inofficioso
testamento.

n° 58 — Et enim si contraria sententia
vera fuisset. filius cu[m] creditoris
patris creditoribus concurreret q[uo]d considerandu[m] n[on] est
cu[m] prius eis solvi debeat.. quam legitima ratio
habeatur. l[eg]. Papinianus §... §4 autem ff de inofficioso.
et ideo quo ad instituenda[m] querela[m] inofficiosa legi
tima ex bonoru[m] intelligit cu[m] prius omne
es alienu[m] deducatur. tamen ... quo ad succedendu[m] ...
generaliter Iudicetur autentica novissima cod.
de inofficioso. quinto §° ... institutionu[m] ...
... instituendis ... et ...
... in l[eg]. ita 27. § Papinianus ff ad tre
bellianu[m]. Menchaca et Farinacius sup. ...
fatetur ... filius in bonis patris vere credito
rem ... n[on] ... legitima[m] retinere ...
... cuiq[ue] q[uo]d ... creditori ... in ...
... hereditate, et consequ[enter] ... cod. ...

qui sortitus generis se de retinere eorumque omittere leg.
haeres 3. col. de impuberum negotiis gestis tex. ind. ij l.
§ si impuberi. ff de collatione bonorum nam possit
tamquam filius adrogati ex dictis Pii constitutione nil
de dicto § si impuberi cum seqq. arrogator ff de adoptio-
nibus prosequuntur Paulus Castrensis in eod. loc.
roderiquy Suarez et faquinaeus ubi supra
ad secundum respondetur
quod licet fateamur gravami- n° 59
ne in legitima filium compelli paternas hereditates
admittere cum hereditariis negotiis implicari
tamen cum gravamen hoc intrinsece et naturaliter
proveniat ex ea quae hereditatem sunt non permitti
in restitutionem clausum inhibitorio novo de legitima communi
persona non beneficio tollitur de legitima filii ex Tollitur
intrinsecum gravamine et a patre impositum vi-
dentur ad dictum Menchaca d. n° 222 Rodericus
Suarez ind. lg commem. limitatione et faquinaeus
lib. 2 controv. iuris cap. 65 in fine.
ad tertium respondetur filio n° 60
tl. in substitutionis legitima
relinquenda esse ut nuper ex audientiae in senten-
tia cui quoque relinqui potest lex si tutor
§ excluditur ff de iure patronatus lex 3 § n°
debita ff de bonis libertorum unde cum hoc equi-
paratio filii et patroni non procedit cum n°
ind. lg. sui liberi versiculo quae quoque iniquae in iuris
rigor observatur sed postquam tantum edicto dequa antiqu.
in ambiguis § 5 § cum seq. ff de regulis iuris
supradictis dicti patrono fuit datus quid dandi datus

qui heredi tale adibi e admisso. dise fruit gravamy manumittere forlay qui forte maiorj pregrarat formale Tersapatromo merity. Sery angor. qui cum cursy Inst. Titulo et sufficienti exclusit. fuit temperaty et effecty ud amissa apatrono legitima, reliqua hereditaty cary. Iure sey transfrony ad sey heredey per liberet post ordinarios d. in. ley trans. Frenquy hic n.o 20 sexty 32 Rubriq 83. Cuiasy in b. nuster Richardy hic d.o Cap. 28 n.o 60. et an in hac parte dem qd impatrono in filio sit admittend dysquer faqulmeny lib. 6.o controver. marg. Cap. 57. liquet ex . . . Iuliy nostre legi 2. et 2. sententia yta in filio militare. Cui in considerer legitima ad quirere et reliqua paterne hereditaty parte omittere

Tarr.o 62 10. Et ut sey tradita resolvi . . . sane difficultate nec nam obstat text. in l. g filio 87. ff. de legatis 2. ubi filio pro parte instituto Cui prelegatum relictum est legis prelegatum retinere et a patrey hereditatis . . . . . . mere. qd et vide . . . . . equivoce pregressione est yta . . . exceptione legi 24 tauri igitur . . . quoq. . . . . . . legitima . . . . mere et . . . . . . hereditate . . . . figul . . . . prelegatum . . . . . . quoque . . . . Iure legati . . . et pro alia parte Iure hereditario . . . . . 73. 5. pro parte ff. de legatis 2. et . . . . in prelegato parte hereditaty Considerari. qd aperte Comprobat d.a tauri lex . . . . prelegato . . . .

illius accrescit omnibus patet nam posse cum benivole
quod non prosederet in prelegatum iuntum iure legati
consistere cum absolutum ita dum alienam sit
ad legatarium prodest defuncti accrescit omnibus
comite de matre hereditarium ... impleverunt.
sed adde desfinitas decisiones
paterns prelegatum integrum n.º 62
Iure legati consistere cum prelegatarius
idem quod heres ab hereditate se abstinuerit
leg. cum filiab. 27. § 1. cum sequentes ff. de
de legatis 2º cuius naturam perspectio sed 3. et quinto
intelligatur nam est controversiam sit de tertio
legitima sit bene resolvendum est lege nona
Indi casu quo ad extraneos. lei 9 tt 5 lib 3
fori quarum respectu pater mihil ... deo dij
ponere posset cum quo de ... filiorum legitima
sit leg. 12 tt. 6 lib 5 compilationis doscend de
... dirigentibus legum ex familia
8. ... nº 52 de legatis 2º matienzo in
lg 2 ga 3ª nº 2 tt. 6 lib 5 compilationis de
tello fernandez in lg 27 tauri nº 3. filio
intus tamen respectu tertium legitima in Indi
Catr cum inco gravamen imponi posse lei 27
tauri ... lgt 12 recopilationis ... nepos aparte
... melioracion lei 28 tauri lai 2ª tt 6. lib 5
compilationis ... nepotes aparentibus pre
... michil ab aliquo iure legitimo consequi posse.
lei si quis postumos § 1. de filiis exheredandis ff. a
deliberis et postumis lei si quis filio exheredato 6

l. ii. nostri in orum et ff. de inofficioso testamento et ita dicunt ...
in tractatu de genere ... Covarrubias in 3.a
tom. 13 ... lib. ... 27 ... et
... ... nec non ...
... ... legitima, nec ...
... ... honorum ...
... ...
delegatis 2.º l. 22. ... ... mejorado ...
... de los bienes ... el ...
... ... alieno. l. ... 22. ff. de ...
l. ... 39. ... ff. de ...
... ... filiis ...
... ... legitime iure ...
... ... delate ... legatis ... integro ... legari
... ... filio
87. ff. de legatis 2.º ... l. ... ...
... ff. de legatis 2.º ... l. ... 22. ... de legatis
... 2.ª ... 6.

n.º 63 nec obstat ... l. 22 ... verba
... ...
... sea obligados los mexorados a pagar por rata
como ... creemos que ... ...
... ... 3.º ...
... ... hereditatis ... ...
... ... verba ... ita ... intelligenda
... ... contra ... mellioratus
... ...
... ...
... ... melioratio ... quanto minus ...
... meliorationem 3.ª ... solum ...

habere dixerit talis frater meliorativus veneri
agi(?) esse in quod bene gravis sit itaque illa barbadi(?)
notant, (Cormos ifrusjez credetros.) cum aliud quoque
esse tale alterius protale habetum, leo mersis 207.
ubi aemulus ex vel ultimo ff deben bonis ex
successione,

ex his in casu occurrenti disputandi
controversia, an maioratus n. 64
successor possit predictorum hereditates repudiare,
et bona maioratus adquirere: nam si maioratus
a defuncto procedit possit commodare, sed constitutus est
ex contemplatione ratione. Cum tunc maioratus pars ge-
neralis videretur: non poterit successor maiora-
tus acquirere et reliqua omittere: quod constitutus
est ex contrarianorum et tunc poterit ea(?) sequendo gre-
gatim seu meliorationis ... cum filiis et fra-
tribus seq. n. 2 leg. filio 2 leg. 24 tenuit quod
maioratus antiquus est et tunc cum successor non
ab ultimo possessore, sed quod ... capit(?) maioratus
prat argumento tex. in lg. 2 ex familia 67. verb.
principio et arg. lex lib. l. n. 88 § finali
ff de legatis 2 quasi duorum diversas hereditates poterit
una adire et alteram repudiare, ut alias relatum ad longum
Peralta in l. 3 § quod fidei commissa n. 129 ff de
heredibus instituendis. Molina lib. 2 de primogeniis Hispaniae
cap. 8 n. 42

Neque superioribus ad versatur tex.
in lg. heredes quoque posse de omni n. 65
agro deserto lib. 11 dum negat heredi facultatem
repudiandi hereditatem et alia commoda retinendi

vo consitat ex illis verbis ubi Ispravimus sa(n)ctis creditarii [illegible] quasi exigit omnis quodcunque &c. et Iure [illegible] sanguinis fit[illegible] sedere Romanus [illegible] doctoris sententia est ultra doctores [illegible] exalepandra hic n.° 5 Jasone 33. Gillelmus [illegible] in capite [illegible] de bulgari n.° 55 gregorio [illegible] tit. [illegible] partida 6. posent.

[illegible] ad agnos [illegible] quos commodo [illegible] excomodo [illegible] agere [illegible] modo exadis [illegible] cognitio [illegible] sufficit [illegible] fiscale [illegible] Castillas [illegible] observationum cap 3. Molina lib. 4 de primo [illegible] cap 3 n.° 16. Gregorius [illegible] tit. 8. partida 6. et [illegible] communis intellecta [illegible] Romanus [illegible] n.° 32 cod. ad [illegible] Menesius in l. [illegible] n.° 4 cod. de fidei commissis. et in causa feudali [illegible] patris [illegible] et feudum [illegible] pro [illegible] acnatus [illegible] feudorum [illegible] lib. 7 [illegible] cap. 3 [illegible] rubrica lib. 2 [illegible] cap. 28 n.° 4 Julius clarus lib. 4 [illegible] feudum [illegible] 76. [illegible] cod. de [illegible] materius 3 parte n.° 85 [illegible]

[illegible] Sequitur ex dictis quod [illegible] n. 66
[illegible] facto consumpto ad hereditatem
paternam [illegible] praelegatum [illegible]
consequi non poterit partem eiusdem praelegati ha-
bere. [illegible] requirere [illegible] Iudicum
[illegible] adinveniantur. Dosaut [illegible] regula
[illegible] 38 ff de legatis 3 [illegible]
de legatis 3 l. cui 38 § [illegible]
[illegible] parte [illegible]
[illegible] l. [illegible] 58 ff
de legatis 2 Bartolus Paulus et Alexander et
alii relati a Bartholomaeo Romerio [illegible]
[illegible] n. 33 [illegible] in l. ff de legatis 2
et tit. 22 quaestione Papinianus in l. [illegible]
[illegible] ff de fideicommissis libertatibus [illegible] l. duobus
26 ff de legatis 1 Donellus lib. 8 commentariorum c. 8.
[illegible] Cit. A.
[illegible] liberum erit [illegible] n. 67
[illegible] legata relicta [illegible] §.
ff de legatis 2 [illegible] testator a [illegible]
[illegible] libera [illegible] fundi [illegible]
Grandi l. Galius Seius 36 [illegible] ff de legatis
2 [illegible] animo [illegible] plura
legata [illegible] cum quidlibet pars fundi fundus
dicatur [illegible] 54 [illegible] l. locus
60 ff de verborum significatione [illegible]
[illegible] dispositiones [illegible] legatarius [illegible] omittere
et alteram agnoscere [illegible] voluisse testatorem [illegible]

Legitarius si habeat unum re una aliter toti re legabit
cum re una onere et alia cum onere quoca ut dictamus
voluisse spectare omnino unumque cum onere alterius et sic ingesserit legatarius unum una alterum
agnoscere... ... de cob. § ... sic si ... ff
de legatis 2º d. L. si legatarius 22 ff de fidei commissariis
libertatibus pr. sicut Cujacius Donelus et reliqui
ubi gravissime idem Donelus in L. 2ª § ex his ff de
verborum obligationibus Sarmiento lib. 8 selectarum in
d. L. nemini 4 ff de legatis 2º ubi ad verbum quod si legatarius decesserit antiquam legatum agnoscat duobus heredibus relictis transmittit legatum eorum cum facultate
agnoscendi et repudiandi cuique unusquisque pro
sua portione parte succedat et L. in h... et legatum
dibidat L. ea ... de negotiis gestis L. ea lege cod. familiae
... neque huic ultimae resolutioni
obstat tex. in d. L. 2ª ff ex his

n. 62 ff de verborum obligationibus dum probat ex persona heredum
qualitate obligationis remuttari igitur si defunctus non
potuit legatum vendere neque heredes eius id omnino quod
evidentius colligitur ex tex. in d. L. si ... in L. cum fundus
56 ff de conditionibus et demonstrationibus ubi probat ex
illis verbis in eo quod omnia sub conditione legatum ... indi
ex accidenti deficit debebat et omnis numerus eorum
qui in locum eius substituit pro singulari persona ... ha
benda ex quibus liquet ... admittendum duferenciam inter legatarios et eius h... ... fuerit et illi
teneri integra re legata aut agnoscere aut omittere ne
defuncti judicium dividant quod eis rescedendum ...

Cr neque obstat dictio .. Legis 2e. Nº 69

§ ex his de verborum oblig. potantiquo

cum Donelo ubi ... respondendum est qualitate obliga

tionis descendentis ex causa legati impositi heredi le

gatarijs ... multis ... pro parte ... unicuique ...

... obligatio eandem vires habet quasi in persona ... cornis

neque ... amplius aut minus heredibus legatarij

quam legatario debet ... est quod ... legatarius ... videret

... poterit ... totum legatum ... acquirere ... heredes autem po

sunt ... hac facultate ... heredibus ... quam inter

... actiones activas et passivas quae divisionem recipiunt

ipso jure dividit L ... cod ... si certum petatur L 3 heredita

rijs 2º cod de hereditarijs actionibus ... L si ... 7 cod

de negotijs gestis ... L ea ... cod familiae ... et sic hac

... admit... ... unum legatum sed duo intelli

guntur et poterit unus ex legatarijs suum legatum

agnoscere et alterum repudiare ... si hoc in persona

... legatarij ... ut supra nº 67 ... ecandi... ·

... imus multo magis in personis ... adm...

debet ... dubitari aut scindi testantis judi

cium dicendum est quod in hoc casu cum dispositione legis

videtur se conformasse ut notari solet in L heredes

mei § cum ita ff ad trebellianum.

Ad 4 difficultatem ex ... L. Nº 70.

cui fundus ... conditionaliter et de

monstrationibus ad verbum ... illum difficile judicari ...

varios intellectus quos DD ad eum tradiderunt supponendo lega

tum conditionale ubi mortuo legatario ante conditionis comple

6 [illegible]

mento ad haeredes eius transmitti. Ceterum ex
affirmativa [illegible] [illegible] [illegible] in conditione na
te [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] affirmativa legata
[illegible] [illegible] [illegible] conditione [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
ra [illegible] [illegible] [illegible] [illegible] ex dispo
sitione hec [illegible] [illegible] ex [illegible] [illegible]
ex verbis [illegible] [illegible] modo [illegible] [illegible]
ne loquens [illegible] ex eo quod [illegible] [illegible] [illegible]
fuisse [illegible] [illegible] [illegible] haeredibus
[illegible] [illegible] [illegible] [illegible] habeat [illegible]
[illegible] [illegible] sub conditione ff de condi
tionibus [illegible] [illegible] [illegible] [illegible]
[illegible] ex eo [illegible] [illegible] [illegible]
Sosino [illegible] [illegible] Sosino [illegible] [illegible] [illegible]
[illegible] ff de verborum [illegible] [illegible] [illegible]
[illegible] [illegible] ff de legatis 2 [illegible] [illegible]
[illegible] 34 Glosa [illegible] n.o 9 [illegible]

Sed inter omnes ea inter
n.o 72 [illegible] [illegible] [illegible]
que dosse legatarium [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] quam conditionem [illegible]
[illegible] [illegible] [illegible] fuerat [illegible] heredes
[illegible] [illegible] [illegible] noluisse [illegible] [illegible]
ex quo effectu ut legatum [illegible] [illegible] [illegible]
conditio [illegible] [illegible] [illegible] [illegible]
[illegible] ff de conditionibus [illegible] [illegible]

Iuris qui in 2a . . . ff de cond. et demon.
. . . cap. 35 § . . .
qua conditio . . . ff . . . in fine
l. 61 ff. de regul. iuris. Donellus . . . ad . . .
lib. 8 commentariorum cap. 34 . . .
. . . in mortuo legatario ad heredes
eius legatum . . . onere tamen
conditionis implende . . . tempore
. . . legatario de
. . . tempore . . . ad barto
. . . implementum . . .
. . . in partem . . . parte . . . legatario
parte . . . sed ea omnes ostenditur . . .
. . . legatarius . . .
heredes . . . ad iuris consultus . . .
dixit . . . proximum
. . . persona . . .
ad hec bartolus sequitur. n° 72
. . . in eo de his . . .
. . . in cuius persona conditio . . .
impleri non . . . possit . . . ne . . .
ex . . . conditione . . .
conditione . . .
. . . § intra ff de fideicommissariis li-
bertatibus . . . respondit . . .
quo . . . tempora . . .
. . . liberos fore . . .
. . . videre . . .

intellectu. cum tam verb. cum vers. [illegible] § finali
lex si servus 14 § 1 lex ix [illegible] 39 § damnasse
certam liberis videndi ll. Alexander in [illegible]
sulu nº 24 ff de verborum obligationibus Seraphinus
de Morus q. 2ª nº 3 [illegible] in eodem
tractatu de mora nº 208, ubi constat in eo
conditionibus implendis [illegible]
nec [illegible] et confirmat text. in l. [illegible] finali [illegible]
culo [illegible] C. de conditionibus insertis
cum [illegible] quaestione ab Bartolo [illegible]
[illegible] de p[illegible] necesse
unde doctores allii in
nº 73 terpretationis exegisitanis
et varia exempla proponunt [illegible] per
[illegible] difficultates [illegible] legatum ser
[illegible] relictum sub conditione [illegible]
[illegible] qui servus post mortem [illegible]
[illegible] plures fuit donatus aut venditus
vº 5 qui imposuit conditionem vendere [illegible]
[illegible] servus [illegible] tu [illegible]
[illegible] finaliter [illegible] ff de vulgari
lex [illegible] ff de conditionibus
et demonstrationibus [illegible] relicto legato
[illegible] conditione non [illegible]
[illegible] quorum [illegible] prorsus
[illegible] contra [illegible]
[illegible] paragrapho finali ff.
de conditionibus et demonstrationibus [illegible]

De adquirenda aereditate

Legatario de quo ind. 44 cui fundus plurius
sey Titius decos falsi dicunt na et legata
cui sey titui potte legitari extam ining eiusre
dictis 50 ff de ligatis 2 prosequenter Tesinus
Vicenior ind.a 9.4 5 cat. n. 1.12 ff de verbo
om. Geraldus ind.a 9 nazione Cujacius lib. 29
q. paginiani in 9 interrogatione 5 si filio ff
ad 93 falsidiam Dame lib. 8 commentariorum
cap. 23

quaeri adue ubi plaquerimo
Oyendus arbitror ipsius n. 74
de legis Titii fundus ua potte figurari in di
Camus testatore cum fundum relinquisset sub
conditione si Seium Sempronio dedisset qui
filius ex pen futurus acquisierit [illegible]
Fruto, sit Edonabis iusta lex in 9 eius
3a. Cod. de donationibus quae sub modo ip
sius Titii legatarii ex accidenti procedant sibi
substituantur, supponere enim inceridati alterutri
quam maltius locum submittere, collocare f
sub rogari Cristomus lib. 7 de her. benefic.
in ficatione vocabulis voluerit a cuius tane
reposita tr. propinquitatem persona habeant
et missa facere ficulmon eius condi
ditione integre satis fieretur commo
dius legati adquirem possint
neg. Seium filiamur n. 75
siquis Sepenes in hereda

ex aquil. non leg. fratris. ergo lomenity. condi-
tionis transire. nisi potius ex eo quod
condi.tio ad implenda debeat. lui qui erit 44
lu. de ver. 55 ff. de conditio. in. et demon.
Tiraquellus. nam tit. procedit respectu persone
in qua conditio ad implenda sit et ideo Jasus
dixit heredi verbo ultimo instituto idest ser-
vo et in domino dare debere. et licet qui heredi
alium vel observari in persona que condi-
tionem ad implere debet. nam hec potest con-
ditionem per alium implere et ideo Jasus dare
deges conditionem satisfacit mediatae nomine
suo debitum licet Amegissa. ex ff. de statu
hominum et hac expresse ad missa. sint iam
difficultas. graphidia sup. nº 68 et constat tam
ind.ª ly. cui fundus n ad liberam resolutioni
propositae. qd liberis legatarius n potiri inde in
dictum legatum nec testamentum hereditatis debetur he-
redis tamen eius potest hoc. nam legatam aliqui.
Teneat de lisaz... partem suam acceptare
et alteram partem suam repudiare qd incon-
veniens. nec neg. dicunt in hiis nostris
leg. 1. et 2. ad leviatur.

Seq. tamen ad michi. ex ...

nº 16 que adoc termini... rangere
mi. de Putare solent in factis et lingua
ruis ... qui pro exclusione rationis ...
rationem ... huius nostre leg. 1. et 2. tradit in my

Ad quintum creditur.

valde ad bursam bdlem, q. dicit ulpianus
dupt. in l. q. quaestum, § in infra hoctt. potest
extraneus a patre ex patrimonio heredes ex
criptus filio q. impuberi pupillariter
substitutus, remota a patris successione im-
puberis hereditatem amplecti. quae cum super
statut dub. habuerit filius cohaeredes et quidem ad
unum exactiali additione separata paterna creditas.
ad eum pertinerent. unus ex propria institutione
alter unus ex iure accrescendi, propter heredes
simul q. substituti repudiatione. sic q. puta
patris et filii seperatae hereditas. l. eiusdem 2
10. § filio impuberi ff de vulgari. sibi nunc sub
stituto repudiata paterna hereditatis parte
impuberis hereditatem amplecti permitteret
consequenter et si ea contra nostre l. q. 1. et 2.
desisione consideret. paterna successione sindere.
cum patris et filii unius sit una hereditas
unum patrimonium d. l. patris et filii iuncta
d. l. si eiusdem ff. filio impuberi ff de vulgari.
Neq. sol. luce difficultas
sed dirigitur ex sententia
marsilii quam ulpianus in d. l. q. quaesitum, amp. n. 77.
plectitur multum interesse an extraneus
ex asse fuerit institutus. an ex parte, ubi
ex parte, potuerit sine metu. a remota patris
successione impuberis hereditatem amplecti.
nam superioris difficultatis ... in ...

gdo ex patre. qua gdo ex qe. quia heredex corporis [illegible] tempore ea militare [illegible] qua filius
ab al [illegible] abscedatur usqueque [illegible] qui industria
[illegible] de quo ea [illegible] inde habet ex ea hereditate
quid qua consequi. credit difficultas hec ex tex.
in l. si filius qui se paterna [illegible] ff de bulgari ubi filius qui se paterna
hereditate abstinuit. si ex testamento fratris hereditatem
se immiscuerit et procedat heredem poterit ex sua
[illegible] hereditatem obtinere. ex quo [illegible] ma
nifeste constat. natura [illegible] forte cum si
[illegible] inter eum qui ex parte et ex qe heres
exemptus. ex patre castrensio [illegible]
[illegible] ita et tunc potest
patris hereditatem omittere et pupillarem ad
quirere qd nichil aliud est. quam scindere. Judi
cium patris testantis [illegible] illud appro
bare. proparte vero [illegible]

n° 18. huic [illegible] respondere
solet. respondere solet ra
tionem traditam ad tex in nostra [illegible] in
ea [illegible] patris et filii [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

Pupillares ad bern[illegible] noster Richardus [illegible] cap.
28 [illegible] 7. sed hec consideratio difficultates [illegible]
mag[illegible] inter [illegible] [illegible] [illegible] concorden
[illegible] fuerit [illegible] [illegible] et filii. Quo [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] quo [illegible] [illegible] [illegible] [illegible]
Cum [illegible] [illegible] [illegible] [illegible] similis [illegible] [illegible]
[illegible] a forma [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] et filio [illegible] debulgarii [illegible] familias
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
bonis auctoritate Judicis [illegible] [illegible] alias [illegible]
[illegible] [illegible] terminus quorum [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] ex [illegible] [illegible] ig[illegible]
[illegible] aut secunte [illegible] [illegible] [illegible] et
quidem recte [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] hereditarij [illegible] [illegible] tamen
[illegible] [illegible] [illegible] [illegible] et [illegible] [illegible]
[illegible] Judicis [illegible] [illegible] nempe [illegible] [illegible]
pro filio [illegible] [illegible] Judicio [illegible]
ordinare [illegible] Baldui[illegible] [illegible] et
Richardus noster [illegible] [illegible] Baldui[illegible] [illegible] de
[illegible] 63 [illegible] lib. 6 commentariorum [illegible]
[illegible] Fabio [illegible] [illegible] ad [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] de [illegible]
[illegible] 32 [illegible] 12 [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] Judicis [illegible]
[illegible] [illegible] inordinatione [illegible] [illegible]
considerentur [illegible] [illegible] fateamur [illegible]
filii [illegible] [illegible] [illegible] inexpert[illegible] [illegible]

Paternam portionem amittere et repudiare, an ad eius successionem inde lib[er]alitate Iudicis Patris ... admittantur.

n.° 79. Quare quaestio haec, quod saepe ... quaeritur ... a patre instituto ... et impuberi filio instituto paternam hereditatem adire, et filius repudiare posset ... contra paternam ... requirere, et filius adquirere ... ... iuris expositoribus ... ut constat ex Bartolo, Paulo Cumano, Fulgosio et Bellugui ... ... eodem ... in ... finali ... antra hoc tit.° ... ... 56 cum duobus sequentibus ... in eodem tractatu 2.ª parte cap. 28. Antonio Fabro 2.° Coniecturarum cap. 2. ... 34 ... et 32 ... in quo ... ... de libera ... ... de bulgari ... Pachardo ... 8. cap. 28 n.° 75. ... Clara methodo ... omnia quae ad hanc partem ... perspicere possimus sequentes casus separandos ... primus quod ... ...

Primus quod

Casus ad quaestionem [illegible]

Primus, quo impubes filius ex aliqua uxore institutus est heres eius a patre suo [illegible]. Habet tractatus de ex [illegible] quo capite separari heres ex [illegible] et impubes, ob [illegible] potest substitutus hereditatem separare [illegible] patris habeat filius an habeat, sed an utriusque an neutrius habebit iunctam hereditatem [illegible] de leg. sed [illegible] in § filio impuberi ff de vulgari et leg. paterfamilias 26 [illegible] ad [illegible] substitutum ff de [illegible] conditione [illegible] possidebit et [illegible] hereditatis [illegible] Baldus manifeste ad [illegible]. [illegible] Bartolus, in d. § filio impuberi, et in d. l. paterfamilias et in [illegible] de impuberum [illegible] in d. § filio Antonius Faber [illegible] 32 errore 2 n. 22 [illegible] 18 n. 2 Langelotus de substitutione tractatu de pupillari n. 53 Pereira in [illegible] tom. 1 n. 58 [illegible] de [illegible] substitutione ma[illegible] pupillari in [illegible] cap. 15 [illegible] [illegible] ad superiorem casum [illegible] [illegible] competere [illegible] substituto taliter [illegible] impuberi [illegible] ad [illegible] paternam repudiare.

Secundus casus l. quo impubes n. 80
ex aliqua a patre heres [illegible]
[illegible] paterni a [illegible] et impubes [illegible]
Iulianus. [illegible] ad [illegible] 42
[illegible] Iulianus [illegible] substitutum oportere paternam hereditatem repudiare

[illegible]

et pupillare acceptere, sed ex eo modo [illegible] di
[illegible] paternis respondere nulla [illegible] separatione
[illegible] ut constat ex illis verbis [illegible] substitutus
[illegible] inclinat enim [illegible] ut [illegible] substitutus
[illegible] patris onera subiturum. [illegible] Ulpiani [illegible]
beneficio pretoris si abstinuerit hereditate [illegible]
[illegible] 30. [illegible]
[illegible] communis [illegible] [illegible]
paterna creditoris pupillari [illegible] [illegible]
[illegible] heredi ex [illegible] [illegible]
cum [illegible] paterno obligetur abstentionis beneficium [illegible]
[illegible] heredi [illegible] pupillari
substituto [illegible] quasi [illegible] ratione [illegible]
[illegible] impuberi [illegible] substitutum [illegible]
[illegible] paternis creditoribus [illegible] facere affir-
mabit

vi. Ulpianus tamen [illegible] Iuli.
[illegible] notatis

[illegible] quod pupillo [illegible] impuberi qui
[illegible] habere [illegible]
[illegible] cum pupillus paternae [illegible] abstinuerit [illegible]
[illegible] nullaque bona patris ad eum per-
venerit [illegible] Ratio [illegible]
[illegible]
[illegible] patris et filii creditores
[illegible] fuerint et [illegible] inconveniens [illegible]
considerari [illegible] quod substitutus patris cre-
ditores [illegible] [illegible] ad [illegible]

[illegible]

nec ea tamen exempta est creditoribus patris quodquodque modo impugnandi quare actiones ei obveniret actionem ac darent adversus eius heres in nihil intendere potuerit ita et similiter nunc cum substitutus in quo nulla eius obligatio videat

n° 82

Sed extat tradita tractatio in d. l. petr. 28. ff. de bonis autoritate in dictum praedentis ubi si recte lerus Iustiniani praeceptor docet ad pupillus paterna hereditate se abstinuerit et decesserit substitutus qui postea ei ex eius rebus successerit teneatur satisfacere patris creditoribus quibus pupillus esse respondere non tenebatur hac difficultate vel aliis DD emendatrices manus attulerunt et etsi vinculo usque in substituto negationem valentes ita sequitur usque in substituto filio herede sed ut inducere ut sui hostenis praeceptoris sententiam de qua ibi cum iulia ni viciculo de qua ind. l. se expedias voluerit ita et probe das in d. l. petr. Et Henriquez asserit dicti sin gulari necessarium rationem l. 2 ceterum Antonius lib 2° de iure aureo c. 20 ut d. l. patr ut superiori potestione se gaudeat veniat integram veritatem fidei vix corporis pupillus se patri miscuerit hereditati

n° 83

Quidam emendationibus et aliis positionibus omissis discrimen inter supradictas species adhibendum est aut impubes patris bonis sese immiscuit sed abstinuit et heres eius restitutus creditoribus patris satisfacere non cogit ... patris hereditate renunciata de qua in

sentencia Marcelli quam amplectitur Ulpianus in l.
si pupillus in hoc tit. ut inpuberi omnis ne admisse in
miscuit ex quo alter abstinuit et tunc substitutus qui pu
pilli hereditatem adiit patris creditoribus satis fa
cere astringitur quasi patris et filii hereditas et asten
sio substituti ni substitutus egerit sed tantum filio cu
jus quod si paret ut potius patris quam eius bona de
neant et cuius inmistio § 42. acquireret factaque
dicatur ejusque integrum ei abstentionem bene ficium remaneat
neat. — impuberibus enim ibi iure omnimodo abstinendi
nendi potestas fit l. necessariis 57 ibi sed impuberi si
quidem et si ne sese inmiscuerit in fra hoc tit. do
cent e curatio 3° q. papiniani in l. si filius 12.
ff. de vulgari verisimilio res difficilis e in pater fa
milias plures relati a pichardo in dicto 28. n° 78.

N° 84 [illegible] tercius casus e quando in
[illegible] puber filius unus [illegible]
heredem datque eodem pupillariter substituto in quo tal
bestraneus sive patri impuberis sit confirmandus e
in parte. talem substitutum paternam hereditatem adqui
rere et pupillare ommittere aut extra pupilla
rem admittere dico adquirere. Fortunae respondere
si sed si plures § pupillo impuberi coheredeque
eis quater me herede scripserit ex parte et filium
ex parte et ego patris hereditatem repudiavero nam
filii hereditatem nam percipere. Siquidem eo quod
L. in versiculo placuit et enim non causa deli
berandi cuius ratio inesse quod cum repudiata.

uocatio

ex coherede pariterque substituto hereditatis pa-
ternae portione ipso iure accrescat pupillo qui ea
tunc heres extitit nam nostra hereditas jam esse coe-
pisset et ea substitutus non potest alteram ab alte-
ra separare docet Cujacius ubi proxime

[illegible] positioni ad
versantur [illegible]

76 Item qui in d. l. quanta 40 § fra[illegible]
ubi ex Marcelli ad julianum probat sortius heres
ex parte hereditatis dicere et partem repudiare et
manifeste ex illis verbis constat ubi ait heres par-
tis poterit sine metu remota patris suspicione
impuberis hereditate [illegible] huic difficul-
tati Accursius scotius ultima in d. l. quanta
[illegible] et Bartolus admittunt in d. l. qui duos [illegible]
[illegible] facere conantur asserens postea illum impuberi
[illegible] debere [illegible] in d. § filio impuberi etc.
nam licet pupillo ex parte herede scripto cohe-
res datus pariterque substitutus non possit paterna
hereditate repudiare et pupilla [illegible]
§ filio impuberi sitamen ultra filium et coherede
poterit omissa paterna hereditate [illegible]
[illegible] ad repudiata portio paterna [illegible]
hereditate accessit [illegible] et substitutum
dicendo solum pupillare judicium patri [illegible]
[illegible] esse non videtur [illegible]
[illegible] paterne [illegible]
[illegible]

ratione hereditatis [illegible] fuit repu-
tata [illegible] tunc semel [illegible] acquisita fuerit
[illegible] filio impuberi [illegible] [illegible] hereditas
ll. [illegible]

nº 86 Quid si [illegible] [illegible]
[illegible] domini debet [illegible]
[illegible] [illegible] substitutionis [illegible] supponit [illegible] per
[illegible] heredem [illegible] [illegible] [illegible]
rationem substitutionis [illegible] ex [illegible] filio heredi
[illegible] [illegible] [illegible] supponit [illegible]
[illegible] nemo et [illegible] doctores negabit [illegible]
[illegible] portionem omissam accrescere [illegible] [illegible]
[illegible] accrescere [illegible] [illegible] [illegible]
[illegible] accrescere [illegible] [illegible] [illegible] portionem
[illegible] [illegible] [illegible] [illegible] [illegible] filio
et [illegible] [illegible] [illegible] [illegible] principia accrescere.

nº 87 Quare [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] ex [illegible] fuisse
et [illegible] a patre [illegible] heredes ll. quorum
alter [illegible] [illegible] exheredato [illegible]
[illegible] [illegible] et dubitatur [illegible] paterna
hereditate omnino [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] cohere [illegible] por-
tionem [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

mita in datis 12. videlicet y quatuor decem.
pro ... filii ... quater ... eius
... eodem ... quae adeunte ... con
firmata ... victoria ... quinque
credidit negotia ... sanderet ... judi
catus ... solas ... quasi mane
... tamen ... per
... ex possessione con
firmata ... 27.
§ qui ... per ...
... adeunte ... quamvis ... omni
... ex ... adire ...
... quod ... quin ...
... haereditate
... haereditate adire ...
... filii
impuberis ex ... habebit
... possessione ... ex hulianus
... tamen ... nostro
confirmat ... haec ... inde
... 20 ... in fra ...
ex quibus ... po.
... affirmata mar[?] n.º 8 8.
...
... sententia
... et
... quae ...
... substitutus

intelligenda ēēt casu quo inquirit aut
ex lege exeredatj heredj. Sī ex parte
et eo herē unicū ea quae sunt substitutj, inqua
pupillarē. Julianus mecum vidēat afirmandū
substitutum in eadem impedire ipse animū quem
inquietarj hereditati. Cum ergo in hac maxima
integra casuū proposita nullo modo
potest intelligi verū eius afirmare, maiestatj
in notitia. Julianus sed ē legem vero dixerunt
radi suum in casu deo est, quando semper impu-
ber fuit exeredatus et duo apatre heredes sunt, q[uorum]
quorum alter patris heres stat, tradidit alter quod in
pubeni substitutus fuerat patris possessione repudiasset
ex quo etiam sentitur julianus idem quod Placentinus
dicit quisquis lectant ut a patre quae a nemine illa expensa
obseruanda erant pro verbo et perfecto superiorum iuriū
expositione remedij. Certa in ea si nate 2ª parte ve-
re deserant n.º 16 Caius intellectus ad d. § quem
tamen et Antonius faber decade 3 enero 5.
nº 6 multis fundamentis tentatur eam legem in
bonis ans[?] ponenda.

Quartus casus est extra
n.° 89 nuus heres institutus exa[?]e
substitutus ē exeredato filio impuberi patris que ne
hereditate recuset et impuberi retinere vult et na[?]
editur esse quia nisi patris hereditas verum sunt sub-
iti titulo abonerit l. 2ª verisimile dicit set si e iurec es quer
ani 4 de vul. gratianici ca[?] quae ius dicitur patris cognat[?]

Cad[illegible] Et[illegible] militare
Verit[illegible] debet [illegible] a[illegible] [illegible] l[illegible] quesit[illegible]
A[illegible] confractis [illegible]

Ceterum quia extraneus
[illegible] filius [illegible]

[illegible] aut constitus fuerit et in absentia fratris [illegible] diso [illegible] existencia [illegible] Lares [illegible] alios [illegible] [illegible] Ricciardi [illegible] X in notatis ad Donell[illegible] cap. 5. [illegible] ane [illegible] videatur adde [illegible] [illegible] quesit[illegible] qui [illegible] capacia [illegible] de extraneo [illegible] de filio integrique set [illegible] [illegible] sic [illegible] extraneo dicendus [illegible] de le[illegible] quesit[illegible] de qua [illegible] lex ma[illegible] [illegible] aut quia [illegible] quesit[illegible] non [illegible] [illegible] [illegible] et si [illegible] de filio [illegible] [illegible] equitate [illegible] [illegible] severitas. [illegible] et filio [illegible] se abstinere et [illegible] filius [illegible] trono [illegible] intra [illegible] de [illegible] heredum qualitate

Ex quo [illegible] [illegible] licet [illegible] Ini[illegible]
[illegible]ani post [illegible] quesit[illegible] [illegible] ind[illegible] [illegible] sic demonstraret [illegible] [illegible] [illegible] quesit[illegible] [illegible]

cetenti vera lex fuisset respectu sui heredis.
Iuris civilis [illegible] in [illegible] [illegible] tamen eandem
[illegible] [illegible] [illegible] [illegible] [illegible]
l. [illegible] 57. infra [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] fratris [illegible] [illegible] [illegible]
C. [illegible] [illegible] [illegible]

Qua [illegible] [illegible] [illegible]
ex [illegible] [illegible] fratre.

n. 92 [illegible] [illegible] ad [illegible] [illegible] [illegible] in [illegible]
[illegible] 41 infra [illegible] ad [illegible] [illegible] [illegible]
Iacobus [illegible] [illegible] [illegible] Baroilus [illegible]
[illegible] [illegible] [illegible] verum [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] valde
et [illegible] [illegible] affirmare, [illegible] [illegible] simul.
[illegible] [illegible] fuisse [illegible] [illegible] ante
[illegible] [illegible] paternis [illegible] et [illegible] heredes
[illegible] suam [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] infra
[illegible] [illegible] fratri [illegible] [illegible] [illegible]
fratris [illegible] necessarius [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] necessarius [illegible] [illegible]

[illegible] que fuit [illegible] commentaria [illegible]
[illegible] partiter [illegible]

Quaeritur [illegible] d.
[illegible] infra hoc t°. n.° 93

[illegible] dominus [illegible] fuisset [illegible]
[illegible] pater [illegible] [illegible] n. paterna.
[illegible] aqua [illegible]
[illegible]
[illegible] in balneo [illegible]
[illegible] et [illegible] quidam [illegible] Cod.
[illegible] emendari [illegible]
[illegible] infra hoc [illegible]
[illegible]
[illegible] novate.
[illegible] sed ex [illegible] prudentia
[illegible] sua [illegible] quae con-
[illegible] quae patri [illegible] 59. infra hoc [illegible]
[illegible] causa mortis
[illegible] 37.
[illegible] causa mortis. Cum [illegible]
[illegible] neque [illegible]
[illegible] 32 [illegible] Cod. [illegible]
[illegible]
[illegible]
[illegible] Cap. [illegible]
[illegible] 60

[illegible] fa[illegible] de [illegible] [illegible] de
[illegible] 32 [illegible] de
[illegible]
[illegible]
[illegible] laude [illegible]
[illegible] ~~[illegible]~~ macula
[illegible] confessio

[illegible]

[illegible] hereditate adv.

[illegible] imaginata

AD TXMIMlo ev.
in aliena [illegible]
de adquirenda
hereditate.
Fe.

Nemo ad eundo, aut repudiando
hereditatem [illegible] [illegible] in
[illegible] heres adeundo [illegible]
[illegible] hereditatem [illegible]
[illegible] hereditatem [illegible]
[illegible] hereditatem [illegible] adeundo adquirere [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] haeredes
[illegible] [illegible] unum executorem quidem [illegible]
[illegible] [illegible] [illegible] curatores [illegible]
[illegible] haereditate [illegible] [illegible] [illegible]
[illegible] aut [illegible] [illegible] [illegible] adire [illegible]
[illegible] [illegible] [illegible] more [illegible] [illegible]
[illegible] [illegible] haereditate ff. [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] eodem [illegible]
[illegible] haereditate [illegible] curatore [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] familiae qui [illegible] [illegible]
[illegible] extraneo [illegible] se ad haereditatem vocatos
[illegible] ad quos [illegible] [illegible] aut [illegible]
[illegible] [illegible] [illegible] in hac [illegible]
[illegible] [illegible] animadvertit [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] plures crediderunt [illegible]
[illegible] [illegible] [illegible] [illegible] familiae [illegible]
[illegible] [illegible] ~~[illegible]~~ [illegible] [illegible]

[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] familiae [illegible] extraneo [illegible]
[illegible] [illegible] haereditaria [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] familiae [illegible]

in libris et ego ut ratio ... in libris ... ff.
de ...tate ... cum annos 45 §
et unde ... ff. de ... Prisempi
... qui merito ...
... ff. ... ...
... Vlpianus ... Sedesia legitima
... patris ... discere ...
... legitimae matris ... heredis ...
... de ... quas ... ad ...
... ... et hunc ...
... comprobatum
... ex ... in ...
... materna ... n° 35.

Ex quibus improbatur secunda ... quia ... formaverunt

n. 3 in posse ... ex ... ad ...
... ad ... id notandum ... in
... idem ... § finali ... de ...
... omnium ... in ...
... Relasio ad ...
... ex conjectura 3a § finali n° 3 ff. de legatis 2°

Rursus improbatur sententia

n. 4 eorum qui affirmarunt praedictas
... ad ... praecedentis ...
... ad om-
nia ... § 3 ... ff. de
... conjectura § finali

et sicut erat sensus ad [illegible] Ciuil. (ad) mult.n.
exemplum [illegible] [illegible] quod [illegible] libra
beneficij donorum possessionis bonae patrimonij. non
habere debeat servorum superbonorum possessione unde
legitimae quae ipsa[m] [illegible] senatus [illegible] [illegible]
[illegible] lib. 2 § ultimo ff unde legitimi. Ca.
[illegible] ad mult. [illegible] sufficiat [illegible]
[illegible] [illegible] exceptio [illegible] [illegible] continet
[illegible] legitima [illegible] quae verba
ostendunt [illegible] De creditate [illegible]
[illegible] [illegible] unde bonorum possessione [illegible]
[illegible] [illegible] ex possessione [illegible] [illegible]
[illegible] erit.

[illegible] quod [illegible] in bonorum posse
ssione. Differentia [illegible]
[illegible] in [illegible] hereditatis et bonorum
possessione. [illegible] [illegible] debeat [illegible] idem
[illegible] et [illegible] [illegible] [illegible] michi.
[illegible] § [illegible] in hac. sufficiat [illegible].
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] 3 § ad quinere ff de [illegible] [illegible]
[illegible]. ff [illegible] ordo in bonorum possessione, [illegible]
[illegible] bonorum [illegible] ff [illegible] haberi [illegible]
[illegible] ad mult. illustrauit [illegible] [illegible]
[illegible] ultra [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] atque
[illegible] [illegible] [illegible] (ad) mult. [illegible]
[illegible] [illegible] (ad) [illegible] [illegible] [illegible]

disputationum cap. 2. q. 2. dno meo regulo ...
q. 33 an. 54 Salonius lib. 3. disputationum cap. 3.
Petrus Faber lib. 2 semestrium cap. 22. Faguinus
lib. 5. controversiarum cap. 75. et lib. 13 cap. 38.
Cujacius in d. l. 2. C. qui ad mil. Cornelius
7. commentariorum cap. 6. Alv. Valascus in
notatis ... Barbosa ... cap. 14 per
Boetius Epo ... lib. singulari disputationum
disputatione 2a.

nº 5. Verum tota haec Ulpiani sententia ...
dam difficultatibus et involuta
nam quod filius heres statim patri suo hereditatem
ad quirere non possit. Repugnat Iuris traditioni
quod ... filius patri ... imbutus et ...
... acquirere ... quae fuerint
manumissus ... acquirendi ... imbutus
32. ff. de adquirendo rerum dominio ... Iuris
traditio ... generalis sit ... acquisi-
tione hereditatis debet observari ... magistratus
... regula ... acquisitio-
nes ... hereditatis ... hereditate
... continet ... heres ... eundo ... humore.
... intra ... 38. ff. de ... ma-
ne ... pater ... filius heres ... consequi
... obligetur ... ...
... presidat

Fiat querenda hereditate. n.° 7

Nostamen Si[illegible] quibus obstat
quod acquirendo filius commisit
obligationem commissariis [illegible] tenentur [illegible]
[illegible] & sed [illegible] [illegible] Et
commissarius hereditatis et [illegible] filio
familias sine voluntate patris fiendo [illegible]
subrogatus 3. § [illegible] [illegible] Et [illegible]
[illegible] & et hereditatis [illegible] adiscio [illegible]
[illegible] patris fieri [illegible] [illegible] [illegible]
[illegible] onera [illegible] [illegible] [illegible]
[illegible] patris [illegible] [illegible] [illegible] actiones
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] actio
actio [illegible] mandati commodati [illegible] in
[illegible] [illegible] patri ad quem [illegible] [illegible] [illegible]
retinet

n.° 8

Rursus [illegible] [illegible]
[illegible] pater. sine eius
consensu. [illegible] obligatur [illegible]
[illegible] [illegible] [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
possessione negat igitur. [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] ita
et bonorum possessor [illegible] hereditarius [illegible]
[illegible] [illegible] [illegible] possessionibus [illegible]
[illegible] possessione [illegible] [illegible] ex [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

G

concorrendi habere, quibus qui libere cod. de iure deliberandi, et qui concurrendi venit ad lat. lu. praecedentem 22. in primo, ipso iure infra hoc tempus rogetur propediet colorij. Caput quod dominus possessionem, ac missio tam judicialis sit, in finali cod. qui admittendi ad bonorum possessionem filius, sine patris sui consensu. Iam dixissimus comparere. Leg. 2. cod. qui legitimam personam. Nil finali, et dansermus. Cod. de bonis quae liberis extantis nullo patris sui intercedente, filius bonorum possessionem agnoscit, nisi ipse in eodem versiculo sed in bonorum possessione igitur detinet affirmandum vice. videlicet adimissione.

Denique quod in versiculo sed. Cuius regis ultima ab utroque de iure ponitur suis patris requiritur, ad eundem hereditatem matris. Atqui de aliis, quia sane suis ei esset necessarius missa patris, queretur argumento legis in legis 5. ff. de castrensi peculio, maxima de his qui tutele praemittuntur, extant in lege filius 22. versiculo cum autem alii admittendi ff. de inofficioso testamento. Lex sacratissimi cod. ad tertullianum, lex exceptis cod. quae ad modum inmaternorum vivorum lex 8. cod. de bonis quae liberis exquid. Sumitur probari videtur bona materna erat ante nostram imperatoris constitutionem de quarum lege 2. cod. de bonis maternis patris plenoque iure acquirenti

De adquirenda hereditate

illustrant Alexander? [illegible] cap. 3 [illegible] [illegible] hereditat[illegible] [illegible] figurat[illegible] habens verbo [illegible] n. 223 [illegible] [illegible] restitutione [illegible] [illegible] in parte n. 19.

[illegible] [illegible] n.

[illegible] [illegible]

ad hanc ulteriorem sententiam [illegible] ambigua [illegible] [illegible] [illegible] nostri [illegible] constat [illegible] [illegible] [illegible] [illegible] tempore [illegible] [illegible] [illegible] [illegible] n. 2 Bald. de Paulo Alexandro [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 7. [illegible] cap. 6 [illegible] [illegible] [illegible] E. [illegible] [illegible] [illegible] [illegible] 33 n. 55. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Paulo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nempe [illegible] hereditatis [illegible] [illegible] [illegible] in bonorum possessione [illegible] [illegible] [illegible] [illegible] hereditatis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 77. [illegible] [illegible] [illegible] absurdum [illegible] [illegible] [illegible] quo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quae ratio [illegible] in bonorum possessione [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

35

sin mat. Carolus Scgemius Dec. n° 75 et sui breuiter

agebat d. Jasonem n° 28. idem et Feliguis. quod q. videri

quid. cum multi relinqui maneant. Melior tamen dicere

quam necesse ad aliud quod cogitari ex cogitari

. in nuncupatione tamen ratio

nec haec enim rursus . unde

In 2. n° 20. ex eiusmodi Rebuffus dicit. generaliter nemo

tenetur ea confiteri quae acta enumerari a sui confessario

ridiculum et unde aliquid ex sententia locorum ut id

compertum est illa de forma pollutionis negatiue inueniri

ipsius confessarii fuit enumerare omnia actus ille

gradus, sed potius dixit commissa. Legitimae

id quod facit exterius internum peccatum et con

fessionem ad legem esse in forma canonica. me

lius hanc regulam sine exemplis proponam. cum

2ª glossa ibi recte ad verbum actus et quia ac

ut sapius magis scribitur. Et exercitatio so

luit. Dialog. 83. Covarruvias in 4. parte 2ª

cap. 3. n° 4 esse liquet ea regula non probare

esse capitem rationem. Differentia siquidem internas

conditiones externas rationes, cum intelligere

erga actualia actibus praecedentibus enumeratur.

qui vult internum actum. id enim imperfectis effectis

operatur. huiusmodi et videtur rationem

confessio .

Enumeratio quod ad nunc

generalitates ex communibus rationis

conditio adiunctas conditiones. ita ut hereditates

... habet

Si autem meus Cauzatione dare ratas sta.
tuere sed absque nulla Conditione Ca-
...cta. et stylo. Generatura actus sed Caleat
...ur ...ta ... Tamen Cum ... quod.
... conditio intrinseca ... anima qual.
ate persone ... Dispositione ...
... Dicit cum sua ... actus ...
... nunquam ...
... ... 77.
versiculo ff. ... ff ... ...
... 52. ff. ...
... ... 68. ff. de
credit... instrumento

Sua igitur Ratione ex
... abunde quod ex n° 23
... ... ubi ...
obligari ... nulla obligatione ...
... sine consensu et voluntate ...
obligati ... ...
... 19. ... ...
...
...
... ... obligationis ...
... ...
... ...
... ...
... 3 ... ...
... credit. instrumentis ... ...

§ 2º 4. Quead quirendo verum de mortuo creditur qd.
sua natura contineat crudita et conta aq adl
iendo heres defferimi, itē in morte & contra hoc
omnium esse constat qd sinplius adl undo hereditatē
sineatery. ipu, cum expectatu saltissimo ore credebr.
defferere, cum oneribus hereditariis dis ob eius consen-
su obligaret. qd cum ad nuncandum istis in mortuo
atribue nedum seu introducetur in filiis sui a patri
& ejus hereditate et quelatam adquirendo valeat

Quero rapio in bonorum possesione
Cum militat eodem ratio:

n. 14 abus is mea infferent l. nam praetor qui filio
bonorum possesionem elargitur cum heritatis repudiare
infasit: hoc l. directo et recta bō et nejori ergo
bonum ubilicum. His enim ea bonda proposita ing. quod
cum institutionum bonorum possesionibus. Ex quo
clusa cum ing. suum 2. 7. § ea cum sff de paulis
lib. ser bitutis q. ff. diser bonibus. doserbant. Cal
mutorum humum ex ode capione. Bolonius de
ber bonum num pi capione bonorum qui here cobas
Rubras in regulanote or 2 parte. ca. b co b unde
cum per bonorum possesionem nisus genere de infantium
neg. patrem. rectoria credi. fasiat. merito l. as
lius. pi papatri & cujus no est admisere.

Neque obstat in infstens qd.
n. 15 dyet aler. directo heres non
fiat petita a filio bonorum possesione nihil.
minus tamen filii dec doulum et libet. undirecty.

y lo modo

suscipiendo, tamen etiam cum onere. nostris
volumus quod hac actiones ex equitate proficis-
cuntur, ut illo eque diguntur quarum rationis
agitationem cap. le. unde gratia equitatis a matre
lex illa cum patrono ... quam ... ff. de bono.
cum possessio nibus utilis agitur ita moderatur ut
... quas sequuta ratio adytione patris locum
habeant. ex quo eruenda est ratio ... in ...
... ... in bonorum bito ... uniuers
... ff. ad trebellianum ... marcianus ...
... ... tenor ... patre de domino ...
... ... cum ... bono
rum possessioni ... quod ratio ... sui ... cum
actiones unde pro ... directe sed utiles sunt
eas quas pretor ... pro ... ex bo
norum possessionis ... exqq constat quod ...
hereditatis aditio a bonorum possessio equiparatur
... ... in hac tamen parte ...
... cum hereditatis aditio ... iure ...
... ... possessio ... quas
... ... habuerit

Rursus ex sua dicti emendatione
ratio quare filius ... n. 6.
... ... refundat
emolumentum ... hereditatis ...
... ...
... ... ex causa quem ...
... ...

q[uod] votum a simplici voluntate pendet. Cap. 3. extra
de voto et voti redemptione. Conditione que ipsa a
voluntate [illegible] infra [illegible]
[illegible] [illegible] Cum itaque qualitate [illegible]
[illegible] filius familias obligari ex his causis
que a mera et sola voluntate [illegible] actione
[illegible] a mera voluntate [illegible]
[illegible] l. 2. ff. de negotiis gestis [illegible] mandatum
ex sola voluntate mandantis pendet, et ideo eius
morte extinguatur [illegible]
[illegible] contractus ab initio a voluntate
humana [illegible] obliga-
tionibus [illegible] ex omnibus
his filius familias obligatur [illegible] ex contractu
[illegible]

27 Et ideo [illegible] n.
[illegible]
ex [illegible] filius familias [illegible]
patris [illegible] patris [illegible]
[illegible] l. 2. Cod. de
[illegible] et ideo [illegible] obligat [illegible]
[illegible] filius familias [illegible]
[illegible]
[illegible] Cap. 20 [illegible]
[illegible] cap. 9. [illegible]
[illegible] ad ea admissa necessitas [illegible]
ad votum [illegible] patris [illegible]
[illegible] que [illegible]

Cad. [illegible] administrationa [illegible] sat [illegible] in trac. [illegible] ff. Cad. [illegible] ab inum[illegible] sione [illegible] attendito. [illegible] Consensus [illegible] eius [illegible] ratione [illegible]

Quare [illegible] n.º 8

[illegible] ... [illegible] vant [illegible] ad Calendas [illegible] prioris [illegible] aut [illegible] [illegible] 233 § 2 ff. C. [illegible] significatione [illegible] C[illegible] [illegible] 22 [illegible] traditis [illegible] de formulis [illegible] pagina [illegible] [illegible] ff. [illegible] Alexandro [illegible] [illegible] 3 [illegible] Cas 22 [illegible] operatione religiosi [illegible] ad quem [illegible] haberet aut [illegible] patrimonio [illegible] in congregatione [illegible] Capit. [illegible] 93 [illegible] [illegible] C. 8 n.º 6 Corasius in [illegible] n.º 13 ff. C[illegible] numina [illegible] in [illegible] Cod. [illegible] n.º 60 ff. C[illegible] [illegible] personale

[illegible] dat

za. Beale. Certo commodum vacans ... conqueri
... in ... ... augua ...
... quod ... ... quaeri ...

Cum ab exclusis rationes
differentiae aliae varietas

Deinde inter contractus et distributiones ... ...
... distinctione procedere. Igitur ...
... consistentia excedere terminare ... omnia
contractu ... fixis emolumentis ... que
in ... ad ... ... obligatione ... cum con-
tractu ... obligationis ... ...
ex contractus ... parte ... remanet
... ... contractus ... ...
... ... contractu ... distributione fuis
... ...
... ... et ad ... ...
ne ad obligatio ... ...
... ... Cum ... emolumenta
... ...
... ...

Accedunt ... contractus
... procedunt ...

n.° 20 Consideratur ... ...
... ...
... ... contractus
... ... debet ... ... debent
... ... emolumentis ... ...
... quaerere ... ...

colligitur ad eius [illegible] aditione originale de
[illegible] contractu requirere adquirendi [illegible]
tertius contractu obligatione [illegible] quamvis [illegible]
plane [illegible] actione et sic [illegible]
[illegible] valeret ex contractu [illegible]
commodum obligationis ad quam [illegible]
nulla obligatio [illegible] nulla
[illegible] nec
fuit extra et cum quo filius contrahit [illegible] filius cum
quo contrahit a contractu habet cum patre cuius
fidem sequens [illegible]. Sicut debebat proprio
in [illegible] commodum obligationis et adquireret
[illegible] tamen [illegible]
[illegible] aditione [illegible] creditores [illegible]
[illegible] fuerunt qui mortuo [illegible]
[illegible] obligatio manet [illegible] aditionem [illegible].
[illegible] hic autem [illegible] familias esset
et adeundo commodum hereditatis [illegible]
ipse oneribus [illegible] manerent [illegible]
creditoribus defuncti [illegible]. Cum tunc [illegible]
[illegible] habere [illegible] fidem [illegible]
[illegible] fieret [illegible] defuncti [illegible] filius
[illegible] creditor
ad [illegible] hereditate [illegible] patri ad quem
[illegible] et pater ex quasi contractu aditione celebrata
[illegible] ff. qq. ex causa [illegible]
[illegible] obligatus [illegible]. Cum [illegible]
[illegible] onera cum ipsa hereditate [illegible]

[illegible]
ante [illegible] adhuc [illegible] [illegible] o[illegible]
[illegible] [illegible] [illegible] [illegible] quaq. ex additione
hereditaris [illegible] [illegible] [illegible] [illegible]
[illegible]

n° 21 Sed [illegible] sententia adde
[illegible] n° 67 et [illegible]
liberam [illegible] [illegible] [illegible] ex [illegible]
quaq. [illegible] filius familias [illegible] hoc
[illegible] [illegible] patri adquireat [illegible]
[illegible] [illegible] constitutiones [illegible] [illegible]
[illegible] [illegible] [illegible] oportet [illegible] [illegible]
liberis [illegible] [illegible] et [illegible] nec [illegible]
persona [illegible] [illegible] [illegible] quod [illegible]
[illegible] [illegible] [illegible] hoc de [illegible] patre
[illegible] [illegible] [illegible] ex quo [illegible]
[illegible] sententia [illegible] [illegible] nostri [illegible]
[illegible] [illegible] [illegible] filius familias
sibi et [illegible] patri adquirere posse et consequenter [illegible]
patris [illegible] [illegible] filius [illegible] sibi adquirere
[illegible] [illegible] [illegible] eam quae sibi adquirere
[illegible] [illegible] [illegible] [illegible] opinionem sequen.
[illegible] fundamentis confirmare conamur

n° 22 Primo est [illegible] [illegible] praetor dat [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] cardinale

Secundo Cxxxiii anno [illegible] 3 [illegible] minori
tempore [illegible] in [illegible]
Cardinali [illegible] patri [illegible]
[illegible] anno [illegible] 38 [illegible] eodem [illegible]
[illegible] patri [illegible]
[illegible] anno [illegible] 55 [illegible]
[illegible]
[illegible] Cardinalis [illegible] ex [illegible] anno
[illegible] 45 [illegible] matrimonio [illegible]
[illegible] patris [illegible]
[illegible] Cardinalis erat [illegible]
[illegible] anno [illegible]
[illegible] 22 [illegible] eodem
[illegible]
[illegible]

[illegible] 23
[illegible]
[illegible]
[illegible] ex [illegible]
[illegible] patri [illegible]
[illegible] ad [illegible]
[illegible]
[illegible]
[illegible] Capaces
[illegible]
[illegible] 9 ex [illegible] 50

ad ire debemus [illegible] inter fuisse in rebus
ex Quarantia in [illegible] hereditate filio [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] fidei commissi [illegible] quod [illegible]
[illegible] quarantia fuit [illegible] ad [illegible] ma
[illegible] hereditate [illegible] quod [illegible]
[illegible] [illegible]

nº 24 Praeterea [illegible] [illegible]
[illegible] [illegible]

ff. [illegible] quos fuerint [illegible] [illegible]
[illegible] familiae [illegible] adquireret [illegible]
[illegible] patris [illegible] [illegible] [illegible]
[illegible] adquireret [illegible] [illegible]
[illegible] inter eos [illegible] [illegible]
[illegible] filium patri adquirunt [illegible] adquirunt filio
in [illegible] [illegible] camino [illegible] extra
[illegible] ff. [illegible] ex causa [illegible]
ff. [illegible] fidei commissi [illegible]
[illegible] [illegible] [illegible] impositione
[illegible] [illegible] [illegible] [illegible]
[illegible] ex eam commodi habent [illegible]
filio [illegible] [illegible] [illegible]
commodum [illegible] haberet. Quod [illegible] extra
[illegible] 32 ff. [illegible] [illegible]
[illegible] fuit [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

petant præceptorem ad que ... ut ex lege ...
suorum consul... ...

Præterea sane ... n.º 25

... ex ... in ... ff. de ... ...
... ... hereditatem
ex ... commoda ... et ...
... et ... ... incommoda
... ... ex ...
... ...
... ...
hereditatem adire ... intelligendum est ... ...
... ad ... ... ad
... ... adire potest
alias ... ...
... ...
... ...
... ... adire ... ...
... ...
... ...

... ... n.º 26
... ... fin.

... ...
... ...
... ...
... ...

corpulenti veniunt quam quod repudiare teneatur patre
h[ered]itas vere [cum] possit adquirere quod semper ho
[se]rvari. Cum sine eo possit dominii delatam here
ditatem et bonorum possessionem repudiare lib. 2. § per
servum ff. de adquirenda hered. 26 ex quibus infertur
quod si filius familias infra hoc [casu] patre
[non] obligato ex eo colligitur. Juris consultus a patre
[fi]dum ... adita cum additione facta a filio
familias ... valeat ... sed ... quoque
ex ea patrem ... obligatum cum ... facta ex
[me]ro ... tamen est ... filii. 27 ex
[qu]ibus infertur ... si infra hoc ... filius
familias ... patrem ... habet ... potestate
... hereditatem adire nequit ... a
beneficio ... Et quo ... magis ... et
tantum operatur cum additione facta filius fami-
lias pro patre familias habeatur.

27. Septimo octavo ex hac lege
... 79 infra hoc [casu]
... adquiritur semper per filium patri
... adquiri cum tamen ... semper adqui-
ratur dominio ... quam meri facultate
... per servum 24 ff. de adquirenda possessione,
... 2 ff. de adimendis legatis ... facta
... de ex ... per totum 29 ...
... filius familias ...
... personam ... habuit ... romanus

estibus romanus

exempto manus dicitur. uti in menubus 4. ff. dey n. 27
qui tenet sui liberi iuris serbus non q. rationem
integra negotium cum nulla capitis ratione cum emancipatione
Vngs ullius statum ex quo et illud ad seps. emancipatur. cap. minueretur cum statum mutaret
filius sui heres si manumitteret quod nullum statum
habebat. ut 3. § finali. leg. ff. de cap. minut.
unde minus videri non debet seps. sua. emancipatione
sante patre hereditatis sui capax in sua servus.

Denique fuit pro nac parte n. 28.
text in § cum oportet 6. cod.
personas quibus ibi enumerantur aulas iure
iuris iuris observatione. nullas res que ex
extraneis ad hos familias venerunt et minime
neruerint ad quorum ex quibus verbis conficitur
dispositione iure filiis familias nullum
casibus adquisitionis capaces inter quos. in n.
menarum pater q. de puliis omnibus in omnibus
ex heres emancipatione n. hereditate non adquirere
tamen potuerunt filius eas proprio arbitrio
adire et obtinere. hoc fundamentum
C. et nervos amplectuntur Antonius faber
lib. 7 conieturarum cap. ... et de erro. lib. decad. 26.
error 7 n. 2. 8. et decad. 33 error 7 n. 8
et in particularia tit. 8 principio § illatione
f. principio 6 illatione q. et consensu 7
ratione 3 emancipationem aditur. ing. + ...

ff Celebrando ... codice hic 6 tit. 22 ... nisi
... exque forte ... ad ... fa
... tractatu ... q. 9. ... noster ... hardus
qui plures refert. neque eos ... caribere debuit
ad nostri ... cap. ... 39 ... per to...
... cap. ... ff Collegarij ...
... conquirere ... quibus dat
... inducta et ... proclamasse ... hic ...
hic ... ...

nº 29 Contrarium ... semper ...
... digestorum ...
... altero ... in...ligatis
omnibus ... in capaces fuisse et
... pater ... ad ...
... autoribus ... sen.
... semper placuit ... que ... et
... fundamentis ... 2 ex
textu ... 20 ff ... quirendo rerum
dominio ... adquirentis ... in solum ... per nos
met ... per eos quos in potestate ha
bemus ... ibi ... qui in potestate alterius
est ... habere potest. expressius Iusti
nianus in paragrapho 2 institutionum per quas
... adquiritur ... nostris
qui ... quos in potestate habemus ... quidem
... quod ... ex ... castrensibus
peculiis ... hoc ... adquirebant ...

H

... ne

... dominium a ...

... conformat ... ille a ...
apparente quis fuerit manumissus ... l. 1 ...
quod sibi adquireret ... emolumentum ...
quaerere. ... ...
... ...
... adquireretur Cum, lib. 2 institutionum
§ 9 ... ...
potestate sunt et ... ...
... ... generaliter
... ... adquisitis
... ... potestate adquirit

Nec ... fundamentum ... 30
... ... qui ...
... ... cap. 15 n. 36.
... ... adquirere ... qui ...
... ... habere ...
... generaliter ... ...
... ad ... ...
... ...
... ...
in verbo ... ...
... ...
in ad ... ... quae adquirere
... ...
... ... quod
... ... adquirere ...
... ...

crescerent, nam tunc filii casibus adquirere possent.
Alterat sane ex positio dec. eodem usu quo supra n. 10
et a tot agentia [illegible] ad mitt. [illegible] constat

n. 2 Secundo si contraria sententia
vera fuisset, frustra tamen con-
sulimus in hac nostra sp. quia [illegible] et in his [illegible]
mihi vona 25. § supra infra Boett. in additione
filii pendere [illegible] patris praedictae quod quidem
nullus [illegible] potuerit [illegible] pater [illegible] aere
alieno obligeret cum ipso nolente heredem sit [illegible]
filium mansura neque satisfacere haber [illegible] con-
iecturarum [illegible] cum [illegible] interponi aut nego
usque pater voluntatem suam declaret [illegible] ad-
itionis [illegible] sit. nam hoc est diversa ratione
[illegible] et aliquam [illegible] adire neque [illegible]
praedictare debere post in additione filii [illegible]
sit [illegible], ex eo quod cum eodem momento quo
adeundo heres fit filius patrem heredem faciat
[illegible] omnia [illegible] transferat
[illegible] 23 ff. de adquirenda [illegible] et
[illegible] semel heredis nomen [illegible] habeat
[illegible] 7 a. § sed quod [illegible] ff. de minoribus.
[illegible] 86 ff. de [illegible]
[illegible] adicionem [illegible] debet.
[illegible]
[illegible]
patri!

patris. Consideratis Villanovanis in ea hereditate
quae filius ex ... consensu de nobis
... ex solo filii ad eius arbitrio manere
obligatus contractus ... ad ... hoc ex
... hereditatis additionem quae contradictione ab eo
rationem patris ... eius nequiverit.
ex ... hanc confirmare contrariam
... acquisitionis intelligunt omnibus rebus
quae patri ex ... per filium acquiruntur.

Tertio pro ...
Objectum ... acquisitio n. 32

... requirentur ... filio ...
quae ... donatio conficeret ...
... maior ...
... donationem ...
... donatione ... proderato
... 2a ... donationibus ...
... 23 ... donationum ...
... in.
... 7 ... contractuum ...
... donationes ...
... nulla ...
... donationes ...
... quae ...
... donatione ...
... irrevocabiles ...

donationum per manicam(?) ... conservandi inter patrem et filium ... constituti ... naturalibus ... fratrem ... ff. de condictione ... mentio ... constitutum

n° 33. Secundo in eodem ... in eodem ... donatio ... obligationem aliquam contractam ... liberalitas ex ... l. 14 ff. de precario ... ad 14 § ... precario ... ff. de ... alteri ... l. ... obligationibus ... § ... ff. de obligationibus et actionibus ... donatio nullam ... admissam habeat ... sola rei traditione perficiatur ... ff. de donationibus l. ... 35 § donatio ... ff. de donationibus causa mortis ... donatio ... traditionem exigunt ... ambulatoriam obligationem ... personam donatarii ... contractum unde ... intentione contrariam effectum ... l. omnium 29 ff. ... legata l. 14 ff. de adimendis legatis ... donatoris ... obligatione ... liberalitatem exercuerint ... l. ... 28 § fin. ff. de donationibus ... actio

Occasione renta devadinate

in ex donatione oritur promer dolum sed maxime ex dolo progrer donationem dolori nesfipiente donator nulla. actione constringitur ad hered. dominium irrevocabile quem donatarium per stipulat cum inicum est. ad quam liberalitas uno tenet

Praeterea negant ex parte dona n. 34 fatur ulla obligatio potest considerari. adeo ut si ullo modo donationem fieri contingat et adimpleri ad beneficentiae et in observato modo nulla ex donatione obligatio proficiscitur. ad res requirenda sed et conditio con. petit. et paenitentia ... cod. de donationibus quoquo modo quamquam ... tam iure ossiores quod sit donationi ... de ultima ... revocatione progrer pactum ... vitri

Alter noster Richardus n. 35. supponendo ... fateri conantur. Haec capit. n. 44 qui post alias considerationes ... ratio inimatur ... in le ... legitima ... patre filio. donari non potest. quia filius familias et adquisitionis ... separatas ... inter patrem et filium ... acquisitionis sit incapaces ... ratione patris

[illegible]

[illegible]

Nº 38.

[illegible]

Quare licet est antiquorum ratio quam invenio
Iason supra ... dic nempe. donationem
inter parentes et filium in ... de donatione filio
... patri ... et sic ad ... re
... Donationem in ... imperatorum ... sequuntur ... emancipatus
... pariter Dominium ... temporis quo ... pro ... patre
... quaerere potuerunt ...
... constat ... patriam ... statuere filij ...
... patri ... eiusdem. Donationem ...
... cum ... patris ... quam ... adquisitiones imperatoris ... pervenient
... Iasonem ... considerat ... similis
ratio ... generis ... Cons. ...
... l. 29. § ... Iuliani. ff. de usufructu.
... dominio ... reservatur ... cui
... ratione ... et
ab alio ... mihi adquirere ... domi-
... nihil ... mulier ...
dominio ... profectum requiratur ... re.
ad quasi ... quae ... patris ... potestatis ... filio
... inter patrem et filium donatio ... esse
... sup. n. 32 ... ...
... [illegible]

supra

n.° 37 Quarto in nostro iudicato [illegible]
C[illegible] maiorem ex pendo iura
in l. si quis filium § ff. de collatione bonorum
in l. si pater 6 ff. unde liberi ubi ait quod si
filius emancipatus et nepotes ex eo retinuit tene-
ri negari quas filius post emancipationem procre-
avit omnia negotia bona comparavit sibi [illegible]
nepos simul cum sorore a patris hereditate
per bonorum possessionem in tab. aut unde liberi
admittatur nisi forte alius nullus ex his
fructus acquirere velit [illegible] sit de potestate
nepotem dimittere sed ad emancipatum [illegible]
emolumentum bonorum possessionis per [illegible]
ex qq. [illegible] constat tunc [illegible] [illegible]
patre filio ad acquirendum filium [illegible]
[illegible] capaces [illegible] patris [illegible]
[illegible] in [illegible] [illegible]
[illegible] emancipari et emolumentum bo-
norum possessionis [illegible] acquireretur sed
[illegible] quod [illegible] acquirendi [illegible]

n.° 38 Consequitur [illegible]
in d. l. si quis filium §
consequentia verba ad [illegible] ea sola
quae post emancipationem nata patri [illegible]

consequenti

[illegible] [illegible] docente ad [illegible] collationis
continuandae ex quibus [illegible] casu [illegible] quod [illegible] defuncto
in [illegible] multum fratre [illegible] [illegible]
[illegible] apud eius dictum [illegible] ex [illegible]
[illegible] [illegible] nec [illegible] [illegible] plane
[illegible] [illegible] confirmatio [illegible] [illegible] [illegible]
[illegible] [illegible] habet [illegible] [illegible] emancipatae
[illegible] [illegible] patris [illegible] [illegible]
[illegible] de collatione [illegible] emancipatio [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] conferre [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] quod [illegible]
[illegible] [illegible] collatione [illegible] [illegible] [illegible]
[illegible] emancipatus collatione fratris [illegible]
[illegible] [illegible] fraude hoc factum sit

D[illegible] [illegible] ratio [illegible] 39.
[illegible] ex supradictis

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
filius et [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] quem [illegible] quod
frater ante emancipationem patris [illegible]
[illegible] [illegible] [illegible] patris conquirat [illegible] [illegible]
[illegible] [illegible] neque [illegible] [illegible]

... quod quam ... mandatum a bis ...
fratri ... de iure ... frater ... quod
... adoptivo ... adoptivo ... cum fra-
ter filii adoptivi nullo tempore ... alterum ...
... tertius ... ei quem fratrem ... adoptavit ...
... frater ...
... praesentis ... commodo et ...
mento ... orbaret. unde ...
... facta ... hoc ... ad ... adoptivo
... bonorum possessione ... natura ... [illegible]
... confirmarunt ... ex quo
manifestatum ... manifeste ... com-
... quas ... sup. ... fuerat ...
... sententia ... traditio ...
... Dicha[illegible] noster sup. in 42 consequenti.

cap. 40.

Quanto ... ma[illegible]
... in capacitate ...

... quod ... quaestione ... quod ...
... textus expendo ...
... 565 ... ff. ...
... a patre ... minus ...
... ultima ... Jdem ... praecip[illegible] ...
tenere ... ratione Fa[illegible]

... [illegible]

Sed tanquam [illegible] q[uo]d recessit procede[illegible]
[illegible] Tarte [illegible] fidei [illegible]ior quatre
[illegible] Covarr[uvias] [illegible]
[illegible] quam [illegible]
[illegible] hystoria [illegible] pacem [illegible]
[illegible] ad qui venerit magnime incom-
[illegible] iudicaret ad [illegible] persona [illegible]
[illegible] obligatio [illegible]
[illegible]
hystoria [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] in [illegible] homine 345 [illegible]
[illegible] persona
[illegible]
in capitulo [illegible] obligatio
[illegible] hystoria conscribat magnum [illegible]
[illegible] voluntate eiusdem.
[illegible]

n° 41 Syrus in eam[dem] eandem rem

eandem rem in q[ua] quare ad

modum ff de fideicommissis libertatibus Iuris consultus

dixit ad quem admodum invito domino si vos

singulando adquirunt ita ut ex nomine

dominii si vel permitti pastarii ex stipulatione do-

minis adquirunt prosequitur Iuris consultus dixit

dixit ex traditione quoque si et dotalis

sermo filio familias [illegible] facendo e so stipulatu

patres dominio adquirendo tantum ideo exceptio

superius quia in traditione quoque si eam fiat eodem liquet

quod ad traditionem vel in filio ajunt ut vo

observari eandem admodum ante semper cons

qui contrarium sequuntur servus domino vel in

tuto ad quem eas si filius patri in vivo quaerit

n° 42 Sextum decadis eque

pro ratio fuit uti decisione

Nos lege dominus 39 ff de acquirendo rerum dominio

qua ait ut Paulus Iuris consultus dixit

si domini servo et patri singulare adquirendum

quod per eum remittunt fieri et in hoc servo ad

quaerunt de illi 23 quod per remittunt legi [illegible]

suspitiolaris Confirmatur [illegible] quibus
sunt a[illegible] fidei [illegible] consistunt velut
ad emergendo [illegible] agere [illegible]
[illegible] ad [illegible]
[illegible] aperte [illegible] demonis [illegible]
– 30 ff Observarum obligatio [illegible]
a [illegible] quaerunt [illegible]
[illegible] daemonis [illegible] secundum [illegible]
[illegible] ad [illegible]
[illegible] ex [illegible]
[illegible]
[illegible] venenis [illegible]

[illegible] Confirmatur – 3.

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

quam patris [illegible] [illegible] vestitu
iudicatur patris [illegible] ad quisitio [illegible] propter
propria filii iudicari [illegible] similiter [illegible]
a patre nomine filii facta perinde iudicatur ac
[illegible] filio [illegible] ea [illegible] esse
[illegible] est [illegible] patri adquiratur

n. 44

[illegible] Comprobat [illegible]

C. [illegible] quando [illegible]
[illegible] ff. de verborum obligationibus [illegible]
[illegible] adquirit [illegible] qui [illegible]
[illegible] perinde iudicatur ac [illegible] patris [illegible]
[illegible] patri [illegible]
[illegible] admittere [illegible]
ad quando [illegible] et [illegible]
qui [illegible] patris [illegible] est [illegible]
[illegible] patris [illegible] obligatione ad [illegible]
[illegible] ff. [illegible] fore [illegible]
patris [illegible]
[illegible] ad [illegible] filius ad quisitio
[illegible] capax

n. 44

Cum in presentem[?] nostra … 45
[illegible] argumento

Tenet [illegible] … [illegible] el voy
[illegible] in [illegible] … [illegible] 4 … [illegible]
26 … [illegible] … de [illegible] cap.
que … de regulis juris in 6 … [illegible]
[illegible] quacumque … [illegible] … et in [illegible]
… [illegible] … 28
… [illegible] … congruis [illegible]
in … legalibus … [illegible]
… 56 … quia supposito [illegible] … [illegible]
[illegible] … erat … [illegible]
ex causa … [illegible] …
… [illegible] … 3 … [illegible]
… ff de minoribus … [illegible]
… 35 … [illegible] … [illegible]
7 … ff [illegible] … [illegible] … 93 [illegible]
[illegible] … 4 … [illegible] … [illegible]
… [illegible] … [illegible]
[illegible] … [illegible] … [illegible]
… 2 … [illegible] … ff … [illegible] matri-
monii … 34 … [illegible]
… [illegible] … 345 … [illegible]

1

[illegible] mo. [illegible] specialitatis [illegible]
[illegible] labore [illegible]
[illegible] mulieris [illegible]
[illegible] communiter in
[illegible] matrimonio ad [illegible]
[illegible] non [illegible] et [illegible]
servi [illegible] cum pater [illegible]
[illegible] barbosa [illegible]
[illegible] antonius [illegible]
[illegible] decad. [illegible]
[illegible] erat [illegible]
[illegible] ratione capax [illegible]
[illegible] affirmandum
[illegible] omnibus [illegible]
[illegible]

[illegible] Videlicet [illegible] argumento [illegible] specialia [illegible]
[illegible] matr. [illegible]
[illegible] contrariam partem [illegible]
[illegible] pater
[illegible] de [illegible]
[illegible] ordinatione [illegible]
[illegible] non [illegible]

Decreto Competitur filio hereditatem reguntuntur a filiis et incapu. germanis lia verum actu milij. ac in compat. in eodem tam... veriscerenamen auctoritatem in ea hereditate filio militi comparanti sibi et que admodum filius miles incas tamquam... Cedituri suis Com. ... actiones contra omnes exercere sic filius hic pagan... ... hereditate ... ... petens ... ... et demum omnia perinde exercere ... familias. ... quandiu vult ... familias cum moritur pro filio fami. Iudicatur ut colligitur ex de ... hereditatem filio ... ita ... quandiu ... ... quia in supradictis speciebus filius et filia sunt adquisitionis capaces ob speciales rationes in ... nempe quia veri ... et quia que fac... ... nec patri nec domino alquiruntur in ...

... quis ...

ptr speciale falore nubtaru in 3° virtute receriptt stat manifesta Regula qd stricta juris ratione siderata nullo in casu filius adqui sitionis erat capax

Duodecimo et ultimo parte hanc astruitur qd pandectaru jure atento nec patr sine filio nec filius sine patre hereditate adire ... nec ... his qui heredes ... ultimo intra ... qd ... jure abrogata e ... et ... ult ... cod de bonis que liberis ... imperator statuit ut si filius iam ... heres ... institutus et ipse hereditate adire cupiat ... adhitione recuset nec filio velit ... re ... filius hereditate adire ... proprietate et usufructu adquirere ... patri filio recusante licitu erit igitur ... liquet ante ... institutione recusante patre filius ... hereditate adire et ... adquisitionis capacem ... nec ex tali aditione sine patris ... facta filius obligatus manere et hanc sententia ... Bartolus ... et reliqui in d ... placet intra hoc ... multi relati a ... Baldo ... et Decio in ... et ... ... chamacedo ...

Restat satisfacere fundamentis n.° 4 8

Pro contraria parte adductis l. a n.°

22 et ad l. 4 ex tex. in l. 4 § sed et si filius

ff. de edendo omnino accursio ibi quia scribit dic

tione maxime supplenda ita ut sensus sit

qd si filius fam. argentariam exerceat sciente vel

tenenti patre edere rationes et tunc maxime

cum ipsi patri quaestum refert et omnibus aliis ex

conditionibus et i. Alberici et fulgosii ibi di

cendum est seniu[?] ... sed recte sa

binus respondisse ... ad mittendum cum patri

quaestum refert eum ete patre teneri rationes ede

re ... cum is sciente

filius argentariam exerceat sed ut sabinus

adhibuit ... quaestum ... refert nam si ... patri

referat tunc rationes pater teneretur re

fert autem quaestum filius fam. alteri et ... pa

tri cum alliquo ... fuit argentariae

tabernae iuxta tex. in l. si cum § ff. de

exercitoria l. si quis 7 § ... refert

ff. de institoria actione quo in casu ...

... et ... pater rationes edit ex suo ...

... nec sequaces ex dictis verbis colli

gere filium ad ... capaces fuisse quilibet

hanc ex ... debebant

animadvertere argumentum a contrario ... sensu

n° 4?

manifestam iuris dispositione et receptam doc
torum traditionem videbatur deduci

ad 3 fundamentaliter deduc
tum ex d. l. q. § sed et licet
si quid minori ff de minoribus respondetur
Loquitur in legato relicto filio familie quod pa
tre eius cogeret ut ostat ex eodem § qui illi
sed et si ei legatum sit aliquid quod patre eius
coheret cum ius milicie dicendum est pone
et restitui in integrum inter fuit enim eius
non capi cum hanc patri non adquireret sed
ipse haberet ea autem que pro omnis filijet ser
bi coheredad patrem l. dominum in trans
ire § n° 42 manifeste demonstravimus
nec iniuste filius est capax milicie igitur
et comodum quod ex milicia pervenit filius
sibi retinet et sic etiam est dictum iuris hoc
illius comodi capax ut milicia sit officium
eorum qui in aliqua secta inter statutos re
lati sunt ex quo salaria et comoda a prin
cipe recipiunt nam responsio in necesario
sequitur filius est capax milicie quod est capita quibus
est cum modo pecuniarij cum considerari
possit milicia ex qua onor tantum et non
in comodum participatur et que in facto po
sitam quam in iure consistit hoc l. que ex
servicijs aliculus ... acquirit ...
... mulos ... habuit et ...

Ex militia aliquas commoditates et adquisitiones, et resultare in negotio Juris consultus in § 19 3ª capta... [illegible]

Qui militiae ... [illegible]

Ad quaevis ... [illegible]

Opt. Sequarius, extra... [illegible]

Militiae ... [illegible]

institutione de inutilit. alijs tractatio
manus q obseruatione cap. 8 cusanus 7 q 3
afrticam... patet ff de pactis dotalibus d.
inst. 4. 22 commentario n. cap. 17. faben d. con
iecturarum cap. 4. et 9 cap. 17.

n.° 54 Ad septimum multis exma
ssimis omissis etiam.

Contra media in 4.a ordinatione Cod. 22 cod.
de bonis maternis. Cum lex ista aliq. filijs n.
impediret ff de inoff. testam. intelligitur de filio
agente querela inofficiosi et q. illa ratio contra
alii commodum &a. deserviat pro ratione de
servandi ne ratio dependit antecedentiones
ronatur. q. n. est in convenientis extendas
Iura in q. q.a ab ff de iurisdictione. lex
contra b.a Cod. ad leg. Iuliam de vi cap. fin.
extra. de praescriptione: Respondetur
iniuriam que irrogatur filio familias exerce
datione, ille similem. alijs iniurijs quae ei
irrogantur cum querelam pater in dicto filio
proponere n. posset &a leg. papiniamus &a.
in principio ff de inofficioso iniuriam
et actione praeterinas cum et separari fieri
ne obligata. ff patitur institutiones de iniurijs
patrem remittere posse. sed in personam domesticum

It. de pactis l. ii. c. si unius § 7. filio familias
4. per argumentum a contrario ff. de iniuriis
quinetiam sup. 3a parte in fin. at ex eiusdem iniuria
iniuria infert filio ex eiusdem notanti ii
communione namque erat et in iuriis filii
filius dicebatur suscipere innueri a legi pa-
trimonium sibi ipsius. Cuius filii infamia est lex
mul. in in. nota 18 de liberis et postumis lib.
lib. patronis c. 2 § sequitur in mala. lib. paulus 47.
ff. de bonis libertorum Cornelius de Caccialupis
in aglone in glossa proposita 2a ut mariti
vel de patris sed de mentis et ipso filio quaerit
utrum quoniam fuerit ex eiusdem nota in
ut juris consultus dicet inde filius verso
Cuius in hoc casu. ubi ipso maximo vo...
patri ad quirantur commodum victoriae ex
ipse magnorum et honoris in. et sed filio ad-
quiritur quod commodum pecuniario more
vendum est hic igitur sententia cod. consi
ex pissimi dicit et deo intelligenda sunt illa verba
Consulta. alii commodum victoriae quae proce-
gunt relucant belonis. quod imputatis contra
Cuiacius inde filius Pineius sup. ...
c. hardus noster inde patet c. 9. exc.

Constat incrobari ex dictis iuribus materna
contra filio ad quem

n° 52 Ad septimum ex quibus
Cardinalis ex contrario tenere credidit in tuendis ag
gentias fulcri, quod inexplete filius abbas
signes directas aequiparare impotens, nutibus que
ei datur ex equitate extracta, iuris rasione
ei accommodatur ad eum aliis 2° q° 3 apud eam
congregationibus. ad eius tres adducente ad 83 ex
textu unica l. cessi § separatur ff ad tre bellianum
ex eadem equitatem gaudeat fidei commissarius apa
tre occidetus filio suis iuris efecto ita ss. termini
abilis suponendi esse interesidere separatur nullis
adire. nec q° condemnantes et ante aditionem nemor
tuo filius fidei commissi commodo fraudetur
cogitur adire in tamen restituere. antequam in
falla ubi heredi explendi inueniatur hoc ipsius
iuris efectuatur. sed de ipsis in l. illa 23 ff eodem
prosequuntur et ex ii disputationis Cerulus 7° commen
tariorum cap. 22 ubi osualdus litera b et Ma
a llios refert ut quod feredigerius lib. 23 q° 22.
chumasero de quaestione 2a n° 13. ad nonum ex
textu in l. imperator 50 ff. ad tre bellianum
respondetur procedere in peculiari impera
toris rescripto de quo ibi diximus supra n° 46.

n° 53 Ad decimum ex tali in
l. 8 § ff. separatur ante quam fuerint
manumissus defendens extra bene partem conformari

Si qualdez poterat omnia quae perent quae imponere
talitione fiunt parentibus aut dominis tanto qui
id in momento bene filios aut servos remanent
quasi imfacta constituant ut ias animat verum
id quod regimen iurium consultus illa verba ad ieri
quae filius fam. ctr. et 8a. conformat t.
in glosa cum similibus in fra. adeundis animus
exprimit in l. 11. ff. qq. ex causis responde dicit
filius familias impositione muneris in quasi ad
quisitionis capax sed quod conditione impleta pater
fam. Reperitur acceptio inde sibi legatum adquirit
tunc quae legata l. 8 ff. de regulis iuris. ad 12.
ex 8a. glosa bastita Responde. tr. magis ibi cum fi.
lius familias sit adquisitionis capax in quo
terminis ad l. semper si suppenendo sed de talia
longe diversa quod cum ex voluntate et verbis testa
toris omnes fructus percepti ex hereditate
sunt restituendi de qua docuerunt ubi et in l.
cum fidei commissaria l. 8 ibi cum mulier ff. ad
Sil. ff. eodem Donelus lib. 7 cap. 26.

Ad 13. Respondeatur ... ad 54
tantum inde ibi glosa milites quod castrense
Castrense peculio procedere ad filius fam.
miles. fuit a commilitione fieri in ...
corpus ff. aut quo ... cedere. de militare adeo gaudet
filius fam. argumentum ad militem ...

Ad 24 ex tex. in 3 aucnos traly quia illa
respondetur ex eandem fulgosii sententia nostre
... ex eadem illius rabione sup. tradita liquido coustat
nº 55 ... ad ... quinta ex lg. ...
... lege 23 § finali infra.
Socett respondetur ... bonis ex eo texto filiu
adquisita ... capax fuisse sed patres in ...
... filio ... non tenere filius ... bene
... omnibus ... proponquibus ... ad ...
... nego ... ex lge ... per ...
... domino ...
... ad dominum ... ex ...
... regula ... eadem ...
... inter ... ad mi ... uni ... etalter ... im.
mediatus ...
Lermo ... pupilli
... dominium ... ad proprietatem ...
... ad dominum ...
... respondetur ... uno ex ...
... legatis ...
... legati ... ex ... lg ... ff de legatis 2
... respondetur
nº 56 ... infra ...

q. contrariu [illegible] nasti sed requisite adi
[illegible] factam [illegible] in [illegible] forma in [illegible]
[illegible] [illegible] [illegible] ad [illegible] ex lege cum [illegible]
§ 2. infra [illegible] [illegible] [illegible] extra
corpus [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] 35.
[illegible] 4°

Sed [illegible] ex [illegible]
[illegible] placet 79. infra [illegible] n. 52
[illegible] [illegible] solet. argumentum a contrario
semper [illegible] expressas. [illegible] in [illegible]
[illegible] [illegible] [illegible] [illegible] fuisse [illegible]
[illegible] [illegible] propter errorem in facto [illegible]
[illegible] patri et domino [illegible] ad [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] arbitror ut [illegible] in semper [illegible]
[illegible] personis. hereditate [illegible] ad
quibus [illegible] [illegible]. [illegible]
[illegible] [illegible] erat. [illegible] hereditate
[illegible] [illegible] potuerat. [illegible]
[illegible] [illegible] quae [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
ad quos [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] effectu [illegible]
[illegible] 23 [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]
[illegible]

[illegible] annos [illegible] examinare vera
[illegible] videtur. nec [illegible]. Ex tamen nec
[illegible] habebat capacitatem [illegible] effectum. nisi [illegible]
[illegible] [illegible] [illegible]
tai consistit [illegible] adeo ut neque momento [illegible]
[illegible] [illegible] persona [illegible]
consistat.

nº 98 Ad duximus nomen respondere
personas [illegible] quoad [illegible]
[illegible] in distinguendo [illegible] quo ad alia persona
[illegible] ac [illegible] ad vigesimum et ultimum
ex [illegible] cum oportet. versiculo in benignis
[illegible]. Refert ad constitutionem
Constantini [illegible] cod. de bonis [illegible]
[illegible] quae molestet propter ista verba vere
[illegible]. ad casum
[illegible] referunt. sed Respondendum potest
predicta verba [illegible] propter casum quo
in facto consistebat [illegible] casus. [illegible]
[illegible] quas supra tradidimus [illegible]
[illegible] ad quisitionem [illegible]
[illegible] filio con [illegible]
[illegible] filius [illegible]
[illegible]

nº 99 Constat ex his filium familias
[illegible] benedictae
[illegible] ab eundo [illegible] cum
[illegible] sit incapax. quod [illegible] casu quo

hereditas sit consulenda cum professione [illegible] omnis faciende a filio patris [illegible] regularis [illegible] secus sicut 29 § [illegible] infra, et misso ante forme [illegible] C. cum [illegible] § si petitor ff de [illegible] [illegible] ex quo [illegible] e allegatione hic [illegible] auctoritate [illegible] verbo hereditatem [illegible] § [illegible] contrarium sentit

Sed superior Regula [illegible] n° 60 [illegible] intelligit § [illegible] infra [illegible] ubi [illegible] 2° [illegible] 3° [illegible] § [illegible] 4 [illegible] filio [illegible] adire [illegible] adquirere hereditatem [illegible] nova [illegible] [illegible] sin autem [illegible] que [illegible] [illegible] [illegible] adquirat [illegible] pater [illegible] ad eum pertineat [illegible] que [illegible] § [illegible] Cardinus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quit [illegible]

Finis

Sic finis est materie legis 2^e. ff. deat quirenda hereditate.

Et sequitur in l. qui inaliena

ff. qui inaliena de

ad quirenda here

ditate. A meritissimo

doctore Pablo de

maqueda salma

tine grimano.

ano domini

millesimo

sexcentesi

mo vi

gesimo

nono.

Ad tit. de liberis et postumis heredibus instituendis

Rubrica

Auctore Paulo de Maggieda

insuper rem iudicii ... tione ... solemnitatem externa affirmandam testatoris fidem ... quae tales sunt deos impressent ... et aequalis ... non nulli testatori liberi sunt et quae ... certam eius tantum ... ad ... necessitatem recte testatoris ... ut ... fidei commissa ... testamenti ... ommissa aut ... multis sit aut ... suis modis ... formatur ... duo quaedam omnium testatorum ... communes ... gravare ... heredis institutio ... [illegible]

+ ... proxime ... qui ... testatore ... institutio ... testator ... mutata ... nomine heredis ... heredis ... acquisitionem ... heredis ... haereditate ... heredis ... testato ...

... [illegible]

...ce ... [illegible] ... [illegible]

infinitoy. Sat eg. o in ... Dentu part ... depure ... ante
go hery geographicæ ... ... [illegible] ... amor ...
... intelligq. qd lne ... commissary ... [illegible]
... institutiones ...
... nam ... exprime ...
... ——

Secretum ... [illegible]

... ... exercitationes ... ratione ...
... ... delegandæ
... ...
... ...
... ... facile ... memori ... ... organice
... ...
... materiæ ... necessaria ... ...
... ...
... ...
academiæ ... ... et ... ...
illustrare conarimur

... Sunt ergo ... nostri
... ...
... ... exercitandi ... et ... librorum
... ...
... ... comprehendat ... ...
... ...
... ...
... executatio ... ...
... ...

[illegible]

[illegible]

[illegible] ordinarium [illegible]

[illegible] singularis [illegible]

[illegible] videndum [illegible] hoc

[illegible] Molina [illegible] primogenituris [illegible]

67. Paulus [illegible]

[illegible] maternis [illegible]

[illegible] recordatione [illegible]

[illegible] Curia [illegible]

[illegible]

[illegible] sunt [illegible]

[illegible]

[illegible] institutione [illegible]

[illegible] descendentis [illegible] ad [illegible]

[illegible] relatione de

[illegible] post [illegible]

[illegible] videndum ad [illegible]

[illegible] Caldas [illegible]

[illegible] commentariorum [illegible]

Covarruvias [illegible] Molina [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] advertimus.

12

[illegible] postumus [illegible]

[illegible] nostro [illegible]

[illegible] ut constat ex [illegible] cod. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ex [illegible] [illegible] [illegible] Ricardo nostro in [illegible] institutionis de ex[her]edatio[ne] [illegible] Alexandro [illegible] Baldo [illegible] continuis [illegible]. Comprehendere [illegible] possumus ut quidem [illegible] morte patris nascitur [illegible]. [illegible] [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] postumos autem dicimus duntaxat eos qui post mortem parentis nascuntur [illegible] [illegible] dumtaxat [illegible] dispositione restringit [illegible] expressa [illegible] excludit [illegible] [illegible] [illegible] minorem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] institutionum [illegible] qualitatis.

[illegible] Et [illegible] ex dispositione [illegible] [illegible] [illegible] [illegible] postumo [illegible] 23 [illegible] [illegible] [illegible] [illegible] ex[her]edatione [illegible] [illegible] [illegible] [illegible] parentis [illegible] [illegible]

ut intelligamus differentiam postumorum [illegible] postumos [illegible] [illegible] [illegible] postumorum [illegible] in locum postumorum [illegible] [illegible] qui in locum patris succedunt quales [illegible] nepotes.

aicenter et consequenter clare assumim
faciunt adequidq dicendo et ... ibi
ra... et ... 1507. ubi ... ...
nificatione ... ...
... ... antonius ... et co.
... ... cap 26.
communiore ... ... sententiam ...
... ... assumo nato n° 4,
... de ... ...
... ...
... ...
... ... cap 22 ...
... ...

n° 6 — ... tamen declaratio ...
... ...

Sed cum talis declaratio ... ...

... ...
... ...
... ...
... ...
... ...
... ...
... ...
... ...
... ...
... ...
... ...
... ...

n.º 1.

Quoniam patet hanc... ut tamen... ...

Sed omnibus ... ... que considerat ... testamenti et ... ut uni ex nominatis filiis ... consecta post illius ...

[illegible] ... tamquam preteritis nascendo rumperet illud quod ... favor quam exheredationis solum sed insufficiens ... et manifeste ...

... numquam ... firmaret quod nullus umquam cogitavit nec ille favor ... ... contra ... ut ... nominatis ... ab intestato natus ... materia tamquam odiosa ... stringenda et nec ... ampliandam.

Intelligitur improprie natus et ab intestato ... ... ad ... dispositionem

... exheredatio ... ... respective

n.º 8

Hec ... ... exheredatus nominatus ... et unicus ... Posthumus ... post mortem testatoris ... tamen interpretatio ... quam ... ... non ... post mortem patris nascitur.

... exheredatus ... ... exheredatus.

per Capitulum infra doctum cum ait signum instituat
iam natum masculum, tamen institutio valet
et in casibus quibus alterius eod. Genosturmum lege
valde ius instituendi, ubi qui instituit masculum
post decem mensem scriptum institueret eius qui
se vidit nasciturum. ita tamen excludere eius qui post
decem mensem post mortem nascitur et omnino contra
natus, sive in mente sive communiter includeretur
quod nulla alia ratione sit quam quod decem tantum
videtur restrictum et adeo ipse verba non sufficiant
tur. Ad hanc ergo casum dispositio extendatur
aliter ad quod suspectatur institutus et postumus post
se vidit nasciturum, nam tamen manifeste videtur
excludere institutionem post mortem, hic communiter
dicitur eo. infra docti. in quo casum contrarium
omnia... et contra alium in dictis casibus contra
rius cuiusquid aliquid sub conditione facere seu
relinquit sub contraria infacere necessario
inveniri institutionem. Sed quid et si quidam vivoff
de conditionibus, ad demonstr. hic legata et ff. de adi
mendis legatis Bartolus ind. ag. commodi etiam
nº 9 Cumanus 3º dictatus § crystoforus de cas
Antonius Laudatus alasone nº 8 costa ind.
et omnis Plantus, per mortem nº 96.

nº 12 — Sed etiam contra Capitulum
eius ... de institutione
mixto, et nulla ... cod. Genosturmum Genosd ... institu.

Cz intendebat possimus simulari [illegible] quemcumque
[illegible] considerationem ad tempus quo testamentum
confecerit [illegible] in ventre erat. [illegible]
[illegible] ditis fuerit ad [illegible]
[illegible] qui postumo [illegible]. ad textum [illegible] itaque
[illegible] postumi constitutionem de hereditate
quae ab [illegible] secundum indolem natos
[illegible] patre [illegible] quia post
mortem natus [illegible]. itaque [illegible]
[illegible] patris [illegible] conditionem [illegible]
[illegible] cum futurum
[illegible] propter fictionem iuris qua ad [illegible]
[illegible] natus quocumque mortis [illegible]
[illegible] l. [illegible] ff. de sta-
tu hominum [illegible] intelligendus [illegible] [illegible]
[illegible] significatione [illegible] commentario-
rum cap. 22.

nº 3. ad textum [illegible]
ita [illegible] ff. de testamentaria tutela. [illegible] satis [illegible] [illegible]
[illegible] contra [illegible] patrem natos [illegible].
[illegible] appellatione comprehendi facta [illegible]
[illegible] materna erat favorabilis [illegible] ad
[illegible] in constitutionem [illegible]
[illegible] contra [illegible]
ex [illegible] nominatim ff. de [illegible]
[illegible] materna ex [illegible]

[illegible] [illegible] extensio [illegible] ad minuitur.
Et quare ex dictis [illegible] dicti [illegible] ultimi
[illegible] [illegible] testatoris [illegible] [illegible] tutores
dat, ad [illegible] [illegible] [illegible] [illegible] que [illegible]
futurum [illegible] [illegible] [illegible] nominatim
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ut [illegible] in [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] ex voluntate [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] relatiam [illegible] [illegible]
[illegible] [illegible] [illegible] aut [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

Constat ex dictis [illegible].
[illegible] [illegible] [illegible].

[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] vocantur [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

97

et dedicatis usque ad ... unde ... ipsum ... Delicioy ... nec possumus ...
... Secunda ... desuper ... liberis ...
... applicatis ... testamenta ... facienda
... in ... a ... in ... nomine
... vel ... habet ... decimo tertio
significatione

n° 25 ... necessarius ... sacramentum ... de
... assererem ... dubium ... dicto ...
... unus ... ecclesia ... in ... significatione
in ... novitiis ... continentur ...
... maxime ... de ...
... quam ... aquae ... in
... tamen ... convenit ... ut ... de
... aquae ... nec ... in
... recte ... nominis ...
... in ... quae ...
et ... et ... quinimmo
... in ... dicto

n° 26 ... domus ... termino
... ad ... donatione aliter
... possumus ... et ...
... et ... natura ... habebunt ...
... constituere ... et ... ut possumus
... ratione ... conditionis personam
... nec ... in ...
possumus ... inquod ...
... constat ... et ...
... et ... Secundo ...

Per tractatum [illegible] comunicationi
[illegible] differentia [illegible] maiori [illegible]
[illegible] declaratione [illegible]
[illegible] ignatorum
[illegible] respectu [illegible]
[illegible] causatione [illegible]
[illegible] semper [illegible]
[illegible] infra [illegible]
[illegible]

n.° 7.

[illegible]

[illegible]

[illegible] infra [illegible]
[illegible] constat [illegible]
[illegible] antiquo
[illegible] institutionum
[illegible]
[illegible] et [illegible]
[illegible]
[illegible]
[illegible]
[illegible] colligitur [illegible]
[illegible]
[illegible] maximus [illegible]
[illegible]
[illegible]
[illegible]

[illegible] liberorum [illegible] doctrina

contractus, remedia cum dolus causam dedit qui ... ex viduus ... magistra ... ob dolo reprim... dolo q... Cod. de rescindenda venditione ... intellectus ... maternus de facto ... ut post glosas ... elegantur ... antonius mercator ... notatorum ... rubricas in regulis ... 6 n. 6.

n. 8 ... dicunt ... ante legendum ... de ... quae ... et emancipationem ... impatris potestate ... ordinarius ... vertitur ... et ... quae ... emancipatione ... decretale ... d. ... in ...

n. 9 ... omnem ... de ... que ... intelligendas ... Bas ... ex ... dum nepotibus ... qui ... hujusmodi ... liberis generaliter ... descendentes referentur —

... 220

ac liberorum 20 ff de verborum significatione.
iuxta [illegible] materia [illegible]
[illegible] conclusio [illegible]
[illegible] generaliter nomine liberorum [illegible]
[illegible] [illegible] [illegible] com-
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] consiliis [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
parte [illegible] [illegible]
[illegible] Antonius [illegible]
[illegible] collatione [illegible] et computatione

n° 20 [illegible] interpretati

[illegible] verbi
[illegible] [illegible]
forma [illegible]
[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]

3

qualiter debeant ff. in alienatione in testamento
nominari neque non justa dispositione quamvis libe
rorum vel legitimorum formaliter ex scripto communi
ter in tenendo, sed ex credendo unumquemque quod re
quiritur in filio jure ex parte vero in justitia, sed potius
in testamento praeteriti quia ex more loco haber
et nec ac nascendo reputant ad de jure suis dare
suorum consultus donat talis liberos instituendos
sed exheredandos ll. quod idem et in ideo jurisconsultus
in manifesto formavit in ipso jure de ex
heredatione liberorum clarissime in dictis doctores
contra doneum et faber super quo, ad ipsi breviorem
tuum.

Ad tx. in l. 2 et 3 in principio ff. de liberis et posthumis.

Quoniam in utriusque iura
liberorum contextu in re
quirendo eorum exheredatione nominatim facta
dicatur et fuerit recte nam et florentinus romano
iure fuisse consensu, sed ad dictum corpus eo
iure reprobare et in ipsis et in fraude et loquuntur

cum primum est [illegible] sed secundum [illegible] nisi principium [illegible] [illegible] noviores institutionum de exheredatione [illegible] cum tamen ad [illegible] [illegible] ex [illegible] sufficeret [illegible] [illegible] [illegible] reputatione [illegible] inquibus [illegible] de [illegible] [illegible] et inter alia que inexheredatione requiruntur [illegible] generale ut nominatim [illegible] [illegible] [illegible] de inofficioso [illegible] [illegible] institutionum de exheredatione liberorum [illegible] [illegible] [illegible] 22 [illegible] filius [illegible] [illegible] Partita 6. [illegible] [illegible] [illegible] qualiter per [illegible] debeat.

n.° 2. Et primo dixit nominatim [illegible] exire.

[illegible] [illegible] nomine [illegible] aut cognomine [illegible] sive agnomine quarum [illegible] [illegible] [illegible] 80 [illegible] [illegible] [illegible] [illegible] [illegible] in nomine [illegible] [illegible] in nomine [illegible] [illegible] in nomine institutionum [illegible] [illegible] valde controversum [illegible] inter [illegible] qualiter [illegible] nomina [illegible] constat ex [illegible] consiliis de antonio a [illegible] lib. [illegible] commendationum cap. 3. [illegible] [illegible] [illegible] [illegible] [illegible] de officio [illegible] [illegible] [illegible] in [illegible] cap. [illegible]

[illegible] deveniat [illegible] significate [illegible] nomen flac
cus [illegible] et [illegible]

nº 3 Respondendum ad no-
men dicit proprie voca
bulum singularis [illegible] ad [illegible] applicantur
[illegible] dicitur [illegible] nomine nomen cogno
men agnomen ut Publius Cornelius Scipio Afri
canus praenomen est quod nomini praeponitur
distantia singulorum erat quod fratres [illegible]
tuo distinguebantur sic pater ex duobus filiis
alterum Publium alterum Lucium appellabat cuius
praenominis non nulla ratio fuit nam et auctor
[illegible] serunt quod [illegible] nati [illegible] Lucius
qui [illegible] huius nomen quod [illegible]
[illegible] et familiae nomen declarat quod [illegible] communis
[illegible] sunt commune sicut Cornelius
ex Cornelia [illegible] familia cognomen quod nominis
[illegible] aliquo [illegible] cognomen [illegible]
familiae agnomen quod cognominis [illegible]
et extrinsecus [illegible] solet ut africanus [illegible] afri
ca devicta [illegible] cognomen pro agnomine
[illegible] Lucius africanus [illegible]
cognomen [illegible]
[illegible] nomine [illegible]
[illegible] ex [illegible] et [illegible]
suo..

... Tertio ex conditio... filius cuius cognomen nomen, cognomen, sive agnomen expressum fuerat ut ... dicit ... sive ut ... ex ponunt ... indubitatum ... parte demonstraretur ... ut ... constet ut ... ex institutione probat ... nomine in ... ff. de hered. ... nominatur ... de legatis ... et ff. de manumissis ... lex ...

Pariter ... etiam ex conditione ... videtur ... demonstrate demonstratione ... sit ... ff. de ... legata ... demodo ... effectu ... extrahendus sit ... de ... institutione ... mulier ... ff. de ... hereditate ... sub condit. ... ff. de contrahenda ... determinata ... sit ... filius qui ex ... sit indubitabiliter ... demonstratur ... talis ex conditio ... glossa ... ff. de ... nominis ... ex adverso probetur ... nominis ... comm... ... in ... 8

n.° 5 Superior. Resolutio quo
ad institutionem extra-
nei proprie, cum et ex nomine indubitabiliter
ex nominis expressione satis de eius persona
possit constare, alias maior concatenatione
necessaria erit ex quo [illegible] ad instar text. in l. 3 ac
consulendissima [illegible] Cetendo [illegible] quod
ita facere possunt ubi dossimus in heredis
institutione nominis expressionem insuper
[illegible] dicendi [illegible] et alia indicia [illegible]
[illegible] maioret [illegible] qd text. [illegible] [illegible]
loquitur in quo maior [illegible] cautio. [illegible]
intelligendum [illegible] Cesses ex sola no-
minis commemoratione aliquis ambiguitas
resultare potest ut [illegible] duos [illegible] [illegible]
tamen [illegible] [illegible] si ex sola nominis
expressione de persona heredis constare possit
sufficit. [illegible] ex nomine [illegible] in [illegible]
de heredibus instituendis Bartolus [illegible]
[illegible] Bartolus in [illegible] demonstratio n.° 3 ubi
[illegible] n.° 4 ff de conditionibus et demonstratio-
nibus, [illegible] [illegible] [illegible] [illegible]
[illegible] 3 et 3. 7 [illegible] nombrada
[illegible] [illegible] [illegible] in rubrica de
heredibus instituendis n.° 73 et n.° 4 [illegible] n.° 46.
[illegible] 2 Gometius [illegible] variarum cap. 2
n.° 6 et in [illegible] quaestionibus [illegible] [illegible]

Habanet in manuali cap. 27. nº 37. Gu-
tierrez in canonicis questionibus q. nº 23. et 6.
... refert ... Superior tamen resolucio
... dificilis ... in Vlt.
in hac ... docet ad exeredationem sufficere
si ... nomen ... exprimatur. Vt ex
... Vnius ... fiat ... Vnius ex his ...
... sufficere ... sufficit exprimere Vnius
ex his ... maior ... et minor ex eo
... nomen Vt ... decimam ... e Vni
... familie ... et sic ... ge-
neris ... species nomine ... exeredatio
facta ... generis ... potest ... Vni
... ... sequens
Nº 7. ... ... difficilis
... I ... in prin-
cipio ... ... Vbi
... ... an exeredatio ... facta ceteri fi-
lii ... exeredari ... ...
... ... decem ... Paul
respondit ... filius ... exereda-
... ... intercessisse
... apud judicem ... ex quibus
... exeredationem ... ceteros ... spe-
cialiter ... filij ... que
nominatim facta sustineri.

n° 8. Et ex ad(ve)rso superior resolucio vera quae non cadet n. ubi quae hic pro forma nominis aut cognominis expressione requirit ac forma non specifice servata nullius momenti et actus ... respicit de transactionibus. Et ideo de ... decurionum ... confirmacione ... sihec fuerit forma neglecta ... mentiva ... quae ... sed ... bende ... Jelinu(m) ... cum diliera n° 20 ... amplia LL extra de rescriptis ... It. 2° de retractu § 4° ... n. 32. quod non sufficiet quod ... de persona filii per equipolens signo nempe aliquo indubitabili Ut Baldus hic laciùs ostendit n° 2° aquo dicessit Ang. in d. l. quoties. § siquis nomen ff. de heredibus instituendis ostendens quod etiam si l. pro forma requirat nominis expressionem adhuc sufficiet si de persona constet signo indubitabili quod et confirmari potest ex ... ab alciato hic n° 29.

n.° 9. His tamen non obstantibus in superiori sent.a persistimus et ad 4 dificultatem respondemus satis demonstrari personam filii per expressionem nomini familie testatoris ... dixit ex credo filium meum cornelium Lentulum Ligarium ... ... filios ... ...

creditor. videtur intentio ex allio cap. ex re
datio continuata et ... Gl. ... breaque
rent. una ex dictione nominum, si ut sere remedio
verit ... cessit ... bene ...
r. 10

Ad secundam difficul-
tatem ex ... ingr.
tertii, comprehensione infra ... expo-
sitionem continuatis dictam, valde ante non
... controversam annalem, ... prostat
casque ... testator, ... diversos, ...
... tale nomen ... generis ...
... etiam ... fratres ...
... et ... docet ... verbo ... nomen ... gradus ...
mas comprehendit bartolus in ... primo in
... n. 10 ... presentia probat
... communiter ...
... fin. ...
... ...
... ...
... tamen ... contrarium ... capu
... defendat. ... nominatis ...
... cautionem ...

n.º 1 — Quosautem detendi qt
amoris istius filiis et filias
ne exceditur dd. illa clausula ceteris omnibus
filiis filia qz. in exheredi, cum to pannescatur,
individuo expressione uniusque cuiusque nomine
n. contineatur continet tamen ex mentione in.
; certa instancia ... demonstrati intelligum.
ita ut e .... nomine cum testato. desererit
omnes ... immo. inserenda ... sunt nomi
natiz ... filio ex sequito quoz pater ... puta
bat de cuius errore ... agendum esse
qui sepe ... statuet. nullaz lz. ... quasi
filio ... et consequenter ...
...cum ... plus ... ut et sentiis
... Iudicare valemus referre lib. 7. cap. 7. qd.
A iudex competens ... patrem ... puta.
... illius ... de iure ...
nulla questio ... et firmiter sit omni
ex parte prosequitur. Cu aliis liber 2 responsorum
... Pauli ... de interpretatione et
consideratione ... 27. ... finis ...
sequentis ... ... 3.
quicum ... et alii ... utiles
qui ... causae ...
in ... casus ... requiritur quod quis
habeat speciale mandatum ... in specie.

n.º 2 — interim ... cultatis et con
trouersia ... interbarum ex

ft. nãe n. regl. ceruni audio quo ad inst. inutio
mi ten per datione expirationis nominis pro
forma non requiri et ideo suffere pro indubitabili
le llena personas breves demonstrari quia ex
sup. dictis constat et extra in l. si nemo § sicon-
[illegible] ff. de legat. [illegible] quo ad
al. ius [illegible] specios et generales quaestiones necnon re-
prehendo regulariter formas ab [illegible] prescriptas
ce observandas l. super salutes § ff. de iure
jurando l. constitutiones 2 ff. de muneribus [illegible]
le ca antiquitas 2 § 5 cujus cod. de testam. glo.
in cap. ut circa q. verbo formas de electione in
6. adeo ut forma non servata actus corruat d. lex
cu. si § superior ff. de transactionibus ff. cu.
similib. sup. adductis verius si consideremus [illegible]
pralibatis intendere formas fines et effectus
formas [illegible] introducere. at ut amplius ex ea [illegible]
quatur finalis effectus per modum equipolentes prout
actus tenere valebit actus. Jamen si forma
in specie non fuerit observata. elegans tex.
in [illegible] ff. mandati. etenim [illegible]
forma mandati. tamen esse non observata [illegible]
[illegible]
tamen la forma requiritur [illegible] effectus ne
[illegible] mandatarii quae man-
[illegible] effectus [illegible] formae mandati

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fatis prelatis motis proseguuntur post Baldum et alios ipsum. ff. si quis mihi bona § si adquit. Pontanus in l. ff. Quod qui venditi hereditate, et in l. transactionem in q. de transactionibus, Alexander consilio 8 ff. n. 9 lib. 7, Poraquels lib. 2 retractus § 1 + gla 6 n. 3, et Evrardus in loco legali loco ff. Mulin relati agri ita regula 222. ex quibus constat nominis ex fictione non ex ei dandone pro forma ... requiri ... et isti fatebimur. Cum hoc ... sufficeret ... ad complenda hoc ... indubitabili filius ... facta ... morte ... in ... conformatione ... quod ... in hac nostra. lege 2 dixit ... filius ex ... et ... filius ... nomine eius ... ... quantum ... fuerint ... interpretatione ad ... nullius ex ... conclusionis ratio ... existimamus quod ... generalitatis ... in ... aliquis ... ex ... ff. de fundo instructo ... quod ... Gla finalis et Bartolus ff. de auro et argento legato Gla in l. quamvis ... verbis curabit Cod. de fidei commissis

nemo, consistit in pecunia ... oy parcem
idem cum in manumissa, Grio nectur
ter C. ttulo 14 n. 20 gregorius Gla continen
vo castello ... Fiorita ... con
firmat in prima ... in lo titulo 25
... intra ... ubi ex credatio
ita facta ... gerensi filius ... quem
ex erede facto ... unicortante, filio
ex ... plura litigat ... super
quilibet ... iniqua ... potest illustrant
solennis et ... in ... in ... alteratus
Gaspar et Bartolus ubi quae me ... duo fra
tres ... ff. de ... in gl.
qui ... in ttulo n. 222 ... delegatus.
Velochus ... nominatus n. 22 ubi Virgilius
n. 14

n. 24 ——— Sexcenties sunt ... innumeris
inmo ... species ... nomine
... filius sed plures ... iter ... dixerunt filius
meus ex ... Deminuta in terra ... ratio
... ad ... respondere ... credatur
... amplius ... potest et
subtilis ... momenti ... ex ...
... ff. de ... mutuo
... sententia ex ...
... maximus ... ex ...

sed et institutionem Cuius causa laborabimus Ordinemus ... coniunctionis ... in ea contenta. Sic ergo aliquo indubitabili non constat de aliis coniunctionibus quamquam nomen ... in terminis ... coniunctis ... substituendis quod ... et ... est ... in ... casu. nec filius sine aliquo ... testatoris in ... curat ... venienti interpretationis prudentes recurrant in talibus ex ... ante facta ... rursus ... quod ... testator tres filios habens unum ex eredibus fecit et alios duos silentio preterierit ratione ... in ... nullum ... aut duos alios heredes ... et tunc tertius qui superest ... indubitabili demonstrationis reperitur et sic ... ex ... nec predicte venienti interpretationem locus erit

Decisa tamen enunciatio ... cuius ... Dubitandi ratio ex eo iuris principio poterit occurrere quo docemur indefinita universali equipollere l. ... 43. cum l. sequenti ff. de legatis 2°. l. cum ... Veteres 14 cod. de fideicommissariis libertatibus ... a ... de ... lib. 7. tit. 40 ... n. 10. Menoch. in l. cum virum ... cod. de fideicommissis ... et ... oratio ... indefinita ... ex ... equipollere debebat. huic rationi

Oes filios meos exheredo apud dubitandi ratio[nem]
n[on] obstat contrarium evidentibus benignaturum q[uo]d
ratio[n]e admonita placuit id ingenio benignitas
hec vincat n[on] liquet. Ego v[er]o adverto filij age
latione in singulari q[uo]d lata oes filios de ...
dere in materia favorabili ...
placet q[uo]d infra ... l. si ita c. 6 ff de testa
mentaria tutela l. qui filiabus c. 7 § 1 ff de le
gatis 2 l. 1 § 3 § sed utrum ff de adimendis legatis
l. Pluribus c. ff de acceptilationibus unde ...
institutio ita facta filius, institutio licet plures sint
valet media parte quod et in exheredatione ita con
cepta filium ex ... deserendum, unde patet sed
cum exheredationis materia odiosa sit l. cum
quidam § ... infra ... venienda inter
pretatione ad ... hoc l. favorabili que ...
... excludit ... ... cetere aliis ex ...
... propter incertitudinem ... cum ...
... de quo filio ... ...
... in hac specie exheredatione ... ...
... propter incertitudinem que
resultat ex nomine duobus com...
ente ... procedit in institutione extra
neorum ... ita fit filius institutio
... plures sunt cum omnibus ...
hoc comprobat omnes ... ... com
... ... et adeo ... venienda ... ratio

necessaria fuit. Ut in exheredatione nullus comprehensus videretur ex quo satis satis primo difficultas sua consyderata

n° 6. Ad secundam licet non sit

Respondendum si spes sit posse adaptari casum quo pater Relamcos filios praeterit et unum tantum exheredabit nam licet verba ad unum solum relata faciant ut videatur videantur praetermissi adque ita ex eorum praeteritione lis commictat q[ua]ntum nam magis ad unum quam ad alium non fuerunt referri omnes videntur comprehendere secundum praedictam suis regulam quod sermo indefinitam universali aequipolleat et perinde sudicandum ac si pater ita dixisset omnes filios meos exhereda. Verum quamvis usque dicimus praedicta regula in materia exheredationis non admittitur q[uia] respondendum est in difficultati nil sufficientes partes enumeratas cum posit evenire ut ex tribus filiis duo sint emancipati et unus in potestate quo casu si nullo ex heredi... ita pater dixisset filium exheredo sideo in qui in potestate intelligatur lis subiectis cum emancipati fuere sibile ... de venire sat quam pater potuit et de emancipati sentire cum dicti bis exheredam ... et quo ad donorum possessionem ... debeant

Lumgutador ...

Vel in mutatione § ff de bonorum possessione
contra tabulas quod emancipatos institutio nisi de
exheredatione loquitur, ideo aliqui aiunt
eo casu quo iure novissimo fratres potuit suis
liberis si exheredatio nulla facta esset af-
firmabit nullam factam quia testator nec ex-
pressit nominatus de quo sensit adque ita
licet in materia favorabili omnes generaliter
admittendus in odiosa et minime ad subi-
enda venienda interpretatio fit ut in ma-
teriis videatur Comparatione sed propter
incertitudinem exheredatio dicitur quod
sequuntur Jason in § 2 n 18 Cova-
rruvias 2 miscellaniorum cap 12 Gabriel Con-
silio 46 Curtius Junior Consilio 17
n 13 Cusatius sic Duarenus ad hunc
titulum cap 2 et 3 Corneus Commentario
nostro cap 12 Antonius Faber et alii relati
ab Osualdo ibidem in notatis

n 17 Quemque autem ex his supra
Omnibus colligitur no-
minatim factam exheredationem filii carius
generaliter exceptione enormium in materiam
favorabilem ita dixerit non nominandus fi-
lius meus latro Gladiator lexadul-
ter quo creatus his enim verbis ut est
his exheredationis facta valet confirmatus.

C

in l. 3. tt. 7 . Vacantia . et in instituto
ne ut liberi, inglorij veritatis . g. 8 . § 2. ff
de heredibus instituendis ultra ordinarios
... et ... et Cursatius ex forinsecis
Petrum Gregorium ... Lib. 4 ... cap.
n. 29 ... Lib. 2 de Substitutionum
... § 20 Donellus ... commentariorum cap.
29 ubi ... inconotatur littera B.
n. 48

Opponunt Glossa et doctores. Ubi textu in l.
Coheredi § ... nome versiculo ... ff. de heredibus instituendis ... turpia ...
ff. de legatis ... verba contumeliosa institutiones et legata vitiant. Rursus obstant textus in l. ... ff. de Carboniano edicto, ubi exheredatis ita qui natus ... ex adulterio bonorum possessiones Carbonianas habet quae ... exheredatio conjuncta ... generaliter ... ponitur ... versiculo ac similiter ff eodem ... talesque exheredationes invalere

n. 49

Priori difficultati occurrere conatur Glossa sic verbo ex adulterio versiculo ... infamiae et differentias constituit

inter testatores qui [illegible] in scribere con
[illegible] inter nos [illegible] suo [illegible] aliis consi
lit et interesse quo ad ipsius [illegible] de
fendit et tunc eius dispositio [illegible] contra
in finibus contrarii. [illegible] haec sententia.
in iudicando [illegible] [illegible]
[illegible] comprobata [illegible] 3. [illegible]
[illegible] singulo [illegible]
[illegible] combinatur ex [illegible]
lib. 3. ex qua [illegible] testatores ad [illegible]
[illegible] defendere nominando filius [illegible]
[illegible] gladiatores et [illegible]
nº 20 —— Vide eadem glossa ex
[illegible] contrariis.
[illegible] solutiones tradere [illegible]
[illegible] singulo [illegible] contra
[illegible] intelligatur in exercitatione
[illegible]
[illegible] in [illegible]
multi [illegible] [illegible]
[illegible] de [illegible]
[illegible] 3. Cod. ex
[illegible]
[illegible] 3. ff. de [illegible] legat.
n. [illegible] legato [illegible]

et d. l. turnia. inq. honor. consistit

sed et l. si qu. § sed et si ff. de sed. tyt. ut sieri

commiss. saltuy granuno. 2 ff. de legatis 3

ut 3 § hoc autem. ut filius C. § sed si portio ff. de

legatis praestandis l. amissa si mos 36 ff. de ex

cusationib. tutorum l. diuus 45 ff. ad leg. cor

neliam de falsis atque in coniectanda testatoris

voluntate verbis insumosis perfugere argumento

tex. in q. l. 2 ingenere agio ff. de adqui

rendam hereditate. sed et tum vysentis doc

trina sic contra indala hijs verbis 4 d. § 2

ff. de hered. instituendis inhibetur adinam hi intra

verbis insumosis concepta valet.

n. 22

Hi vero articulis

hec dicendus hoc com

Ponere tentat ut ex l. q. indal. hijs verbis

§ 2 procedit in filio cuius nomine tituto. cognita

cedit eo sub b. m. est. qui actus dictus credito

ant mo. c. i. q. inde et h. modo cocreandi filius, obst.

multis in l. q. aut facta Sciuer singulo causa

ff. de cognitione verb. n. recta. cui ey. sine nig. ubi

in tractio nig. capi inter. 94 exemp. et

consilis causa qua persona loquis temporis cultitas

quantitas et eventus considerandas sunt

ma. q. a tris. s. f. e. c. m. tam. eorum ex hijs que facta

fuerit a quo. in qua quo animo quo loco

quo tempore cuiusmodi Plurarios [illegible]
inter alios [illegible] limitationum de insinuat[ione]
diversas [illegible] observatur in [illegible]
[illegible] [illegible] doctrina [illegible] observanda
[illegible] [illegible] [illegible] actus
[illegible] valeat tamen [illegible]
[illegible] sequitur [illegible] in fine
et [illegible] nomine doctrinam bene
tanquam [illegible] gloriosam
in [illegible] [illegible]
[illegible] [illegible] [illegible] cap. 3 [illegible]
[illegible] [illegible] et omnes [illegible]
huiusmodi constitutionem [illegible] sunt [illegible]
[illegible] [illegible] [illegible]
[illegible] in [illegible] regno [illegible] [illegible]
[illegible] [illegible] in [illegible] quorum
[illegible] [illegible] ad eam interpre
tationem [illegible]

n° 22 — Omnibus [illegible]
[illegible] [illegible]
[illegible] [illegible] aliunde [illegible]
[illegible] petendam [illegible] quae ex mar
[illegible] [illegible] [illegible]
[illegible] [illegible] verbum [illegible] quod [illegible]
in [illegible] legato contrarius ad
[illegible] [illegible] scripto [illegible]

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ubi per verba conditionum fuerat ad iuvandum conditionem per conditionem eqt de condi. & dem. in tertio casu. Vel in diuersitas ad 20 ff. de condit. & dem. et de demonstrationibus lu. lib. 3 sententiarum tit. 4 § 25 hic. alio modo lib. 2 secundum veram eius interpretationem ff. de condictione insti. constitutionum sub data turpi & iniuriosa demonstratione manifestata persona heredis & legatarii et consequenter institutio & legatum tamquam purum consistit ex lege. Sy verbis § 2 Ubiusque propter turpi oblato omnino persona heredis & legatarii certa manebat ratione tunc suppositio causis huius restat inquirendum propter conditionem sed propter vim veritatis

n.o 23 Exemplo Pisendae

Vide resp. ver. ad. Vera interpretatio adversus ... libri 98 ... nomine de seruitio ... consilio ... valere institutionem cum secutatur ... nominabantur ... fundo aliquo introducta ... demonstratione in parte ... quod com ... conditione a consilio ... debeat ... manifesta persona heredis in parte et consequenter ... argumento ... qui flaviae &

Ex causa fraudis pleatio leg. Paulus §. ff. de dolo, quibus videtur a contrario sensu. Juris consultus intulit quod si sub blato reo contumeliosio et turpi demonstratione heredis persona in serta, tunc ...io institutio valeret. Adjecte potest confirmari ex sententia eiusdem Ulpiani consulti et casu pro notato ibi lex sequenti inseratur. Menibaca de successionum creatione § 2 n. 72 ... lib. ... Clarus cap. 3. Antonius Massa, Pacius et alii relati a Ursual... in notatis ad Donellum lib. 6 commentariorum cap. 19 lit. B,

n. 24

Vel ac inter pretatio ne ad mensa... cum tractatio ... legatum turpi negata. ff. de legatis ... exponente ... an legatis ... vel turpi demonstratione veluti ... adulterio ... cum ... et ... meretrix ... exemplum ad ... turpia ... generaliter 28 in lege sequenti ... 23. ff. de ... in omnibus ... ... reducta turpi demonstratione ... 3 ... ... 20 ff. de conditionibus et demonstrationibus, et tamen ... ... turpia ... sequitur ... tamen ... sub blata ... hereditas ... confirmet ... omnibus ... ex ... nis, et supra relata ... sequentia ...

Quae verba Iuris consulti loquentis
de legato quod ... nisi ...
demonstratione reducta dicendum in
... exempla ... non necnon
... in legato ... videntur honore et existi-
matione legatarii ... virgini aut honestae
... legetur meretricia vestis quae apud
Romanos fuit toga feminea qua meretrices
et adulterio damnatae mulieres tantum utebantur
ff. unguenta qq. ... in honeste
utuntur ut ex Iuvenale Martiale ...
... commubiale ... aut ...
Terentius ... Parasiti ... legetur
argumento testamenti ... 25 § mulier
... singulorum ... ff. de auro et argento
legato formula ... legata ... scribentis ...
consistere Iuris consultus ... turpia
... turpe ...
... legatum consistere ... potest
argumento ... apud Iulianum 4.° § constat
de legatis ... 2 ...

Nec ... cujus ...
... videri

Propter odium testatoris legatarium legato pri-
vare argumento ... Pater ... ff. de
... 33 § ... Cod.
... est odium tes-
tatoris considerari ... voluntas ...
... legatarius lego

ff. de ... [illegible]

... argumentum ...
... in ...
... in versione ...
... conditiones ...
... heredi ... hereditate
... conditionis ... videretur
... [illegible]

[illegible] et [illegible] ratione [illegible] q. casu
in consequentiam deniant [illegible]
[illegible] ff. de auctoritate tutorum [illegible] q.
[illegible] legatam [illegible] legatur [illegible]
et [illegible] locus praefertur argumento [illegible]
[illegible] Iulianus 26 [illegible] ff [illegible]
[illegible] causa [illegible] dependenda [illegible]
de inofficioso [illegible]

n.º 26

Ad [illegible] difficultatem [illegible]

ff. de carboniano edicto [illegible]
[illegible] in [illegible] patre, ex
[illegible] filium [illegible]
[illegible] causam [illegible] verba ad [illegible]
ex adulterio [illegible] quem exheredatio
[illegible] ex heredatio fac-
ta [illegible] testator crediderat ex adul-
terio natum [illegible]
tatum [illegible] hereditatis ab intestato [illegible]
[illegible] carboniana [illegible]
[illegible] docent [illegible]
[illegible] sacramento ultimo [illegible] divina, ex
[illegible] videtur patre
[illegible] causa [illegible]
exheredatio [illegible] ad [illegible]

n.º 27

Aliter idem [illegible]
[illegible]

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que de carbonianum censeat enim quod ipso
ex heredatus habeat per hec verba ex adulte
ario natus consistat in ... momenti ut
monstrat ea ... economicus responsio carboni

quod communicat actio carboniana

ana ... que competit tunc cum
qui ea ... filius ll ... ll ...
... ex ... de ... ff ... filio sitto
ex quo ... vera ratio ... inde ...
aut qui talis l quod quis ... modum filius ...
... ex heredatus non habet carboniana quia
... filius ... ...
ex heredatus ... illa causa quia natus ex
adulterio habere debet carboniana quia ...
valeat meo Jure ex heredatio ...
quod probat ... filius ... ...
... 24 ... finali ... ...
canus ... ex heredationem ita facta ...
... ex ... natus ... ex ... ... nullius
momenti ll ... ex eo natus

nº 28 Quid de ... valde

Difficilis l quia aut ex
heredatus probat se ll ... et tunc ... fri
canus fallitur ex heredatio non consistit aut non
probat et tunc ... in extraneus ...
... ... 32 ff ... ...
... unde frustra probatio ... ex
pectatur ... expectatur ut ... illa ...
... omni ... talis ex heredatio nulla futura
... varie ocurrunt hic ... facultati

Od^o^ ergo v^o^ ad verit. [illegible] exheredationis [illegible]
iva^e^ ipse contra Damus [illegible] credidit se filium
exheredatum, probaverit se ex adulterio na-
tum ex ipsius uxore, cum pater cognoscit le-
gale presumptione filium suum illum. Iudicari
[illegible] ipse contrarius presumeretur, [illegible] ipse pro
opinione sua illum exheredare a se tanquam
non filium excludere [illegible] presum-
ptione le filius, ut ipse filius habitus ex
presumptione excludat [illegible] aliquid ex
quo [illegible] erraret [illegible] [illegible]
sic ex [illegible] errore detegendo [illegible]
[illegible] [illegible] et [illegible] videndi [illegible]
[illegible] Ruiz in
Resignatione 2a parte cap. 8. § 3. n. 7. [illegible]
[illegible] de [illegible] in § 13 n. 60. Soto
de iustitia lib. 4 q. 7 articul. 2 [illegible] Castro de Le-
ge [illegible] lib. 7 cap. 4. Gomez [illegible] 9. [illegible]
[illegible] actionis que [illegible]
Ut exheredatio [illegible] facta [illegible]
[illegible] exheredatione [illegible]
[illegible] et
[illegible] de liberis [illegible]
[illegible] de [illegible] [illegible]
[illegible] 56 [illegible] 7 [illegible] 6.

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Cnalut exeredationis nouissimam nec cui satis d. remissati sit aut

Certo riguo signo indulserit hucusque mo numius de intes enucessarium ut sibi fit confirmat tuenl sub dicto l. 18 ff. de bonorum poss. contra tabulas datque ni daretur si exeredatio valeret l. ni testabit ff. de iniusto. ff. primi. l. 3. l. 7. tanta

6 illustrant sirtolus. bal. cumanus albericus Romanus gotfried. c. arom ... Bartolus bal.

et ceteri communiter in l. si quis 4. C. de institucionibus quarentur ad hunc tit. c. 3. ... 42 sinagmatis c. 9. ... 6. commentariorum c. 12. ... 8. c. 32. et ... in notatis

N. 2 ... in hujus persitio nis tracto. videnda ...

... et accursius ... motu in § filius ... l. ideoque filius exeredatus judicat ... dicto ... beneficium. inter ... quod exeredatus ... de exeredatis que ... ad instito ... est nulla ... est nulla ...

7 ... infra. ... l. ... regula principium institucionum. de exeredatio ... accursius ... communiter recepta jason. hic n. 3. ... nec contra ... cumanus ... de equiparatione institucionis. ut institutus ... dicto ... l. mulier. 20. § finali de ... institucionis ... institucionis et ... ... ratio ut bene jason hic ... ... exeredatio ... in institut.

[illegible] tamen [illegible] que non potest [illegible] edito que [illegible] sit [illegible] quod 4 [illegible] de here[illegible] institutendis [illegible] et destitutione.

n° 3° Alia tamen [illegible] ratio [illegible] videtur ex [illegible] ex exheredatione [illegible] [illegible] [illegible] [illegible] [illegible] delegatis et [illegible] exheredatione [illegible] [illegible] [illegible] [illegible] multi non [illegible] [illegible] hic consideratione [illegible]

n° 4° Ex [illegible] rationem [illegible]

Vit. [illegible] de institucionibus [illegible] de destitucionibus [illegible] filij [illegible] sit instituti aut exheredari et nullo [illegible] [illegible] [illegible] et observata sit forma [illegible] [illegible] [illegible] [illegible] exheredari cum [illegible] edito [illegible] filie [illegible] exheredari cum [illegible] edicto de [illegible] [illegible] filij [illegible] [illegible] requirit manifeste [illegible] [illegible] [illegible] nullum [illegible] [illegible] subjectos [illegible] [illegible] vel [illegible] [illegible] [illegible] [illegible] defectu [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exheredatus [illegible]

eius altera conditio omnino sit extincta aliquis minus iudicatur sui suis s. . q quod sub conditione ff de nobatione. quod idem erit si filius sub contraria conditione ex pere . . . q anomine abeuntis ex persedatus reperiri feritus q. l. alternativa futurus sui filius modo 3. ff quod dies legati sedat que idem ad hoc. alegaint Bartolus . . . vulg. substitutus infra ff de conditione indebiti. fulgosius et alexander n. 7. Jason . . . Baldus et . . . in d. l. si pater . . . Barbaruntus n. 28.

n. 9. . . . Sed obstat . . . ex . . . in . . . l. filius a patre . . . 28. infra Scott . . . filius sub conditione que in suam ipsius potestate instituitur et sub contraria ex . . . eadem conditione . . . ab intestato Patri . . . manifeste probat . . . valere et consequenter filius . . . iudicari institutus . . . ex persedatus . . . ab intestato . . . aller . . . difficultate . . . filius . . . varie solebat . . . conditiones potestatibus casuales et mixtas . . . filius in casuali conditione intelligi

aliq. aliter exponunt ut ex alexandro
Jason. [illegible] ibi constat

nº 6 Comunis tamen solutio
fuit in specie dicte legis filius
a patre filius in barvigam (?) co heredes [illegible]
potent confirmari ex hereditate con
ditione institutionis desiciente [illegible]
[illegible] nullo ex regula legis Papinianus §
§ si condictione ff [illegible] legis filius
§ per eis ex hereditate ff de [illegible]
contractus [illegible] ex [illegible]
[illegible] ubi [illegible] naturas [illegible]
[illegible]
[illegible] manifeste
[illegible] filio in specie presenti [illegible]
[illegible] ex hereditate [illegible]
[illegible] ex [illegible]
[illegible] filius [illegible]
Cornelius [illegible] cap. 5

nº 7 [illegible]
[illegible]
[illegible] filius ex hereditate
[illegible] debet intelligi [illegible]
[illegible] procurator
4 § [illegible] ff [illegible]
[illegible] eadem institutionis

Sed ex credulitate quando dicit venire ibi praeteritione liberis iure ibi neccut oportet ex heredatis utrisque exheredationem rite factam dicamus coheredis huius aditione confirmetur supponimus aliquis in ap[ro]mainet iuris consultus quando vertit condictionem exheredatione cum dictus nudus fore indicatur lib. 2 servus 22 iuncta glossa verbo in posset ff de stipulatione servorum

n.º 8 neque inspiciendo conditione de versiguli heredeaute,

Contra ex eo non colligitur ne secundo imprimeri illustris parte cogendo datus in fuga potuit qua[...] dato versiquedus ille superiori traditur ad versum quod contrario coheres vero filio constitutus fuit pure et filius sub conditione contra secundus heredeautem liberos datus fuit post mortem filii et si casus sunt omnino diversi quando liberis aformare dus in specie de alius filius agitur exheredationem rite ex complus vero procurus [...]tamen habitus de filio coheredis datus fuge cuius aditione exheredatio posset comprobari ad quod ista ... da... ... omnimus ... filius pendente conditione de se[...]dantes ab intestato patri hereditas ... sensus ... conditionem non potest ... conditione

Cariaga[...]

Aud. C. ...

Aut discedendo a conditione [illegible] [illegible] tra. testamento filiis [illegible] cum non [illegible] stituto. [illegible] ex [illegible] [illegible] [illegible] 4 § [illegible] debere [illegible]

n. 9

Neque [illegible] quis [illegible] [illegible] ad hereditatem patris [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sub conditione et [illegible] ex [illegible] [illegible] [illegible] ex [illegible] [illegible] actione com [illegible] [illegible] [illegible] [illegible] patri [illegible] [illegible] difficultati sit satis [illegible] in nostro iure [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] filii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] filiis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] filii [illegible] conditio [illegible] [illegible] [illegible] [illegible] [illegible] confirmat.

n. 10

Sed adhuc [illegible] ex [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testamento filii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] adversari [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testamento [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] conditionem [illegible] [illegible] [illegible] [illegible] testamento [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testamento [illegible] [illegible] [illegible]

D

41

c.º iv

Ad secundam vero dubitationem

[illegible] conatur satisfacere Actor et
ad primum respondet in d. l. vita sanctum
§ fenalli filium non fuisse exheredatum ante ins
titutionem sed ut ex ordine litere et texti
hic ut d. heredes autem filium herede scripta
fuisse ante extraneum coheredem in hoc casu longum
quod diximus tantum non proscribere pater formam
quam non observabit quia ea est ut in loco filium instituat
aut ex herede nominati faciat principium inst.
de exheredatio liberorum in contrarium aut simul
infra hoc textus quis forma adio observari debebat et
ante ea nihil in testu uniformiter sustineret l. d. heredes
instituendi quia heredis inst. de legimento quod non neminit
patrem voluit et potuerit filium ad vita successio
repellere et pariter extraneum admittere postheriori
ut casu pater formam Lis servabit filium instituendo
ex parte et sic recte potest coheres eius post mortem
eius institui d. l. heredes autem

12 Ad 4 dificultatem Actor respondit
requirit textus in d. l. hereditas p.
cedere in die certa et determinata in qua institui
sperare poterit sciliet si quis dicat institutio
[illegible] fiunt ex die dibi Joannis l. atque ad die
S. Francisci quod esse impossibile et non plenam
heres respondet defuncti primum cumque una
quae referat non poterit id. talis admittit ut
petri aliquod tempus intermedium vacet in quo d.
tantus in representatione non secundum non etiam juxta
dicta semel admissa sit representatio non potest
quae jam fuit desinere et idque et quod jurisconsul
4 fault in d. l. hereditas liberum descripta in
institutio estimata post mortem non cum tres mortis

[illegible] certis [illegible] aliis autem [illegible] de [illegible]
et demonstrationi [illegible] quia [illegible]
institutis coheres iudicatur [illegible]

[illegible] [illegible] [illegible]
cietas [illegible] quia nec
[illegible] ceteri [illegible] assignari [illegible]
[illegible] [illegible] morte filii coheres institui
[illegible] et si [illegible] filius et extra
[illegible] [illegible] casuali [illegible] esse [illegible]
[illegible] dec [illegible] ante [illegible] e [illegible]
[illegible] [illegible] [illegible] [illegible] he
rede [illegible] parte [illegible] ad tempus
institutionis [illegible] cum hec [illegible] in filio
[illegible] [illegible] [illegible] non [illegible]
[illegible] habitos [illegible] in [illegible] si [illegible]
[illegible] 15 annis [illegible] [illegible] coheredem
institutum iudicari ut [illegible] extremum [illegible]
et [illegible] morte filii post quam institutus co
heres parte filio [illegible] ex [illegible] hec [illegible]
[illegible] [illegible] multi [illegible] nihil [illegible]
[illegible] ad [illegible] [illegible] et [illegible]
[illegible] institui [illegible] [illegible] unde [illegible]
eam ad coheredem [illegible] quae [illegible]
[illegible] alibi ex [illegible] Alex
andro Paulo et [illegible] [illegible]
[illegible] an 19

Unde post antiquiores
et recentiores Ant. Fab
[illegible] 15 coheredem [illegible] institutum
[illegible] institutum [illegible] [illegible]
[illegible] instituto [illegible] parte coheres alter
ei assignandus erat [illegible] [illegible]

retr Ut exeredatio ɔfirmaretr et n̄ existente ɔ
ditio. institutionis filio extere decedete tunc sus
titutus admitteretur ad parte filij assignatam cu
q° tn̄ Tale n̄ substitute ɔ institute agelle et
deficeret faber pone de vere q dicti et generare
sensu nisi vba illius tri emendet et lno et ɔ
institui ɔ ponatr multu n̄ cognir ee trip hominu
n̄ existimato ait enim tiau e aue institutus
sit substituto lato anex parte si ex aue substituty
n̄ admitti filio decedete ante ɔditionis ebentu quia
exeredatio n̄e ɔfirmata ex q. u admittir q̄u
cu ɔfirmata sit nichil impedit expectare conditionis
complementu in hac eade sententiam inclinabit iam
dn̄ paleu glorator antiquus que Act ubi refert et
jason n̄ 19 hec tamen ex positio tamen si nec ɔbe
niens judicetr repugnat vbr h et heredeaute qui
in oibg codicily institui et n̄ substitui

I nstanta q° di ficultate in qua
facilius ē aliorū dicta refellere
qua aliquid q° veri solidu et emendationem
n̄ ɔtineat aducere du melius quid alter attulerit
rit afirmo in d vi heredeaute filiu ex parte
scriptu fuisse herede nec exeredatu ee quo incasu
cu heredis extranei aditio sita filio faciente n̄ desi
deretr ad ɔfirmanda exheredatione cu nullam tr
serit nec ɔtr filij ɔteritione ɔiunctr insti
tutio extranei post morte filij collata valet qua
in casu n̄ valeret ad quetita stat ppe dictis ad
instita de qua in d vi heredi aute cuius hec
vba videtr ex positio ex qua et ex dictis colligitr
ratione f sitate ahrm... exeredatione ɔditiōe fac
ta n̄ valor ɔ ti piculu future ɔteritionis

n̄ sustiner n. Qu n̄ e q̄d talis tim̄or videt ttz nullus apparentis neque id [illegible] sarmieti et fabrie expositione p̄bat tex in d. l. filiu a patre cu z die, Vera, eius intr p̄tatis, sitet ttz ibi ab initio mitere nec rursus p̄ dicta ratio filio emancipato ꝯbenit cuius p̄teritio ttz nullus n̄ redit § emancipator enit de exera. libe et tamen emancipatur ib sedit exerendari n̄ pot ut infra exaudibimus — Vera q̄ ratio ad n̄ru tx n̄ l. 6 l. que colligitur ex d. l. ib. iditio. c ff de 9 tabulas ibi n̄ judicio liot apparet [illegible] n̄ remobendi etenim licet jure cibi. Romanorum parentibus summu jus eret l. Romuli de qua Balduinus ad ll. Romuli cap. § jus autem potestatis, de patria po. que l. etz ex eredandi potestas stinebatur Vulgata l. in suis ii infra hoc tt. hoc jus paulatim fuit vanbus tatum l. populi maribus l. auctoritate jurisperitorum entius ne parentes potestate hac abuterentur et olit certa requisita fuerunt introducta qui bus n̄ observatis exeredatio n̄ sustinent l. i. z. et 3 cum hoc rodo l. n̄ putavit l. § n̄ quelis ff de 9 tabulas inter hec autem n̄ minimum locum ob tinet requisitum q̄d p̄ponitur in hoc § [illegible] filius pure ab hereditate paterna submoveatur et n̄ sub conditio. n. hic n̄ ta. judicio patris [illegible] quod incerto saltem casu filius exeredatus vide ultra ordinarios indicatur junitus Donel lib. § c 32 et re lati ab Omald. in notatis lit. C.

n° 17 Sed si qui adhuc exheredatione sub conditione fac
ta defendant saltem in liberis quorum contentio
tamen nulla non redit alias ... incertitudinem
judicij patris exheredatio non nitteret neque in
posthumo sustineretur cuius d'rium manifeste
probat Ulpianus in L. § sed et si sub conditione ff de
ventre in poss. mit. Ubi supponit posthumi exhe
redationem sub conditione facta valere nec tamen tamen
posthumo nato post completam conditionem cuius rei
ratio nulla alia potuit occurrere quam quia exhe
redatio posthumi valuit mero jure cum non sit
de liberis quorum contentio redit tamen nulla ... ex
his agaret ff de injusto rupto=

Nec obstare auctoritatem ind. L. si sub
conditione inquam fuerit ...
pexit ad formam exheredationis ut doceret sub conditione
factam non valere ... ad effectum ut significaret
quod si mortuo patre adhuc pendeat conditio non pot filium
ab exheredatione patris submoveri tali exheredatione et
sic filio datur bonorum possessio contra tabulas n. ad eum ex
cludendam cum effectu requiritur certum judicium non ad
sustinendam exheredationem conditionalem ab initio in huius
rei conformationem adducunt ... in L. cum ratio ff de
bonis damnatorum ibi Ac nec judicio qui de pare
tis nisi certis de causis submoveri ab ea successione
possunt quam verba ad remotionem cum effectu sunt re
ferenda n. Licet filij exheredationem causa fac
ta vitat cum tamen filium injusta causa exheredatus po
sit per genere querelam inofficiosi testamenti sub bertore
ad id respiciens Paulus dixit exheredationem non
posse fieri nisi certis de causis ut apparet non nulla
antiquiorum ind. L. si quater C. de institutis Costa
in L. Gallus § et qui si tantum 38 n. 19 infra hoc tit.

Sed Hec in nullo modo admi
tenda e cu ratio habita a l cp und L si it ditic
generalis. ut patere dicta ss admissa fate du ne
cesario erit ... postea editione ... habi
turam exeredatione ... eam editionem et sic in aliud ...
... genere ... tabu filio antea ... quae ex
hereditatis n ... l n putavit ff de ... tabulas
quedam ... ne cu q ... c ... certo judicio
filius ab hereditate patris fore submovendum n ad
effectum sed ad initium respexit n si ad effectum ratio nu
llo modo excluderet cu integrum ... adimpleri ...
tio certum judicium n ... .

nº 20 Neq Corta adducit ex d L
cu ratio quilquam facit n.
ommissa sª dicetium causas de ... referendas
e ad eas que ... in autentico Ut cu de appela
tio cognoscitur ... aliud quod capitulum ... causa s.
collatio 8. Ut voluit ibi glo et omnis q refert ...
... in l ... n 3 ff de Vulgari cum l duodecim tab. ad
... illis ... teste Cujatius in notis ad Ulp.
in hoc m... tit 16 lit D. ne querela inofficiosi nec
s d causae cognite fuissent sed pater libere et sine ulla
causa filium exeredando cu effectu cu ab hereditate
excludebat nec jus a Justiniano postea introduc
tum a Paulo illius ... auctore cognosci potuit Veriu
dicendum e filio in potestate L 12 ... suos heredes
ee ... jure n posse ... remove
ri nisi certis de causis hoc l ... fuerit hereda
tio et mancipare n. per exheredatione removebatur filius ab hereditate patris l ... l hoc.

tt° ibi nec obstat eo ex heredare pone quos et occidere licebat. Ubi non illud licebat preteriti tempo ris refert ad quas 12 tab. ut tradit Cujat. s baldu itus ad. L Romuli de ex et similiter emancipa tus removebatur filius ab hereditate patris § emanci pati inst. de heredit que ab intestato. Ubi preceptor noster Richard. et nobiores antiquiores ind. junity et int abdicatio & exheredatio pertinet Donel. 2 metamorphos 26 et 6. c 12 ubi ornat. lib. t et 7 ep 14 li Hex qq. vistat ind L cumatis n. aq. de causis que filius in esta ttu ab hereditate removebant.

n° 21. — Nec Corte faci. txs ind L 2 § si is postitio. ff de Vetr inpo.

mi. qui si cu[m] postitio exponat potius nostra quam Corte sententia probat ptor n[on] qui liberorum quisjam in rebus humanis n[on] curam habent eor etiam qui n[on]du[m] nati n[on] et opus nascendi neglegit et ex p[ro] Alius ē dicti eor huius e[st] du[m] ventre mitt in possessionem vi 11. t tabulas bonorum possessionis cum sit incerto utilem sit ventre alij id quod n[on] ex eo qd ib postitio ex hereditate ventre ante ab initio ex hereditate inteligat id potius ex eo qd cum ventris institutio aut exeredatio n[on] sit in pos teratione antequam nascatur cum intempus nascendi oia jura prudentes ei servent Lantiquiz ff si parte heredi peta tur et sic si tempore natibitatis sepeteritus inbeniat ttz rumpit L 3. § ex his aparet ff de injusto rupto si exeredatione inofficiosi queqz relatur. L post humus 6 ff de inofficioso. unde si tempore quo nascitur hoc e[st] tempore initij exeredationis postitio ita fuerit completa ttz n[on] rumpet cum se pure instituti inbeniat ex quo integra Corte secare nemo equim videat cesat que huius

explicatio

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Ad § intr mediaS Huius legis Fertiæ

Discuimus hucusque de nonullis que ad exheredationem necessaria sunt. Et et alia que videmus prosequamur ordo exposcit et ut clariori methodo que ab eo traduntur in hac quam intricata et difficili materia propellant procedamus primo ex vi ante heredis adito exheredatione posita in principio testamenti ad omnes gradus pertinere dicendo ex ratione legis regula quarta § finali ff de iur et facti ignorantia et eni licet olim nichil ante heredis institutionem scriptum in testamento voluisset § ante hered. inst. de leg ubi in frac metis testamento 24 versiculo ante heredis Julius Paul. lib 3 receptarum sententiarum c 6. ab ea tamen regula exempta fuit exheredatio aqua potuit etiam testamentum incipere ad que exemplo Trabonani relato in l 1 in principio ff de hered inst sibe filius ex naturis testamentum tempore sit posthumi iet § 3 versiculo Unde etiam ante heredis ff de inius rup ratio exeodimanat quod heres exheredatio est necessaria ut testamentum ab initio valeat et non rumpatur l si filius 7 l inter cetera 30 infra hoc testamento ex quo sequitur quod in filiis origo necessaria erat exheredatio et ubi filia et nepos non precesus a patre ante heredis institutionem non poterant neque in eis habebat locum restrictum Fragani Celma. ind. testamento i de hered inst Cujacius et Sarmient hic Cort ind l Gallus § et quid si tantum 38 nr 43. et inique si pater 2 § videlicet adiiciens

n° 6 de ttis. in 6. hoc tn ab rogatu, et in l. ambigui tas. 24 c. de ttis et glossa in d. g. ante hered. inst. de leg.
Ulterius colligitur ex nro txtu ex heredatione facto inter heredes unius gradus valere et filium exeredatum manere ab illo gradu non ab reliquis sequentibus ex oriri hinc huius txs ubi istat magna desiduum inter nos tros alij non existimant a Reliquos gradus ex heredationem non extendi et sic si primi heredes amiserint hereditatem vel non adita decesserint tunc incipit esse nullum quoniam a sequenti gradu filium ex heredatus non ponitur
ali verba illa nostri txs a toto gradu idem significare credunt quod ab omni gradu adeo ut ea exeredationem non esse limitandam ad unum gradum quam probant regula ex posita ex l. ante heredis huius nostri txs ubi exeredatio posita in principio quae precedit omnes gradus ad omnes refertur quod exeredatio facta simpliciter inter personas institutorum ad omnes sequentes tradi debet ut tenui probant ex l. inter eos qui mixcuit huius nostri txs ubi exeredatio facta inter gradus substitutorum extenditur ad 4 gradum institutionis et sic istat exheredationem ad alium gradum quam in quo facta est pertinere
Ego vero priori expositioni adereo moveor ex eo quod verba a toto gradu non significat pluralitatem graduum sed singularitatem unius integri gradus non sequens atque ita dicitur totus homo purus homo cum sua integritate significatur Ceterum cum dicitur omnis homo

n̄ Unius id glures signi ficant nec in filior
desitio° txs ind. ergo ante heredes cuius liber
sa e ratio petenda ex Vulgari dicto quod
firmare solet qua ea que in probatoribus di
cuntur in sequentibus intelliguntur repetita
arg° txs ind. l regula 9. ff de jur et fac
ignor § finali l[?] ficia l 34. § finali ff
de verborum obligationum ceterum cum exeredatio
inter unum gradum institutionum apposita e illud
n̄ egreditur dicunt recepta ss Jason hic in
stitio et n° 2° et 15. et ad frequentes ques
tiones maioratum Molina de Hispaniorum
l genijs lib° 1° c n° 1. rursus n̄ obstat ergo
in eo n̄ respondetur quia cum in eo fuerint ma
riti gradus institutorum et substitutorum, filius
inter eos gradus exoredatus repeditur et ideo
ad utroque cenferi debet submotus ut proxime M
gianus dixerat in ergo inter duos

N° 5 Hoc tamen n̄ procedit si ex
heredatio [illegible] facta
persona quia viciosa e ut ergo nisi forte ex
[illegible] e si testator dixerit a ticio herede filium
exheredo ita colligitur in l si ne requirat o § [illegible]
[illegible] ergo ab uno ff de [illegible] Tabul. [illegible]
l 7 [illegible] 9. 8 6 vero huius multiplex solet assig
nari que exoredatio e exclusio ab hereditate et
qui ab uno exoredatur n̄ excluditur a tota here

ditate q̄ ramai q̄ ex heredatus ab uno ex q̄deri
tur ab alio nequaq̄ corruit ttt institu. 2º magis
cludens videtur quia exheredatus ab uno a portioe
qua ille habiturus esset videtur ex clausis ab exhe
redatio facta a portio: L reserta hereditatis
n̄ valet L eu quida. 19. ff. hoc ttº igitur quo
ad iubati ratio hec et arg qui ꝯficit solet de
rebꝫ ad ꝑsonas L qui fuera 2º infine ff de sta
tu hominum L si quis 112 § finali ita legatu ff
de legatis 1 ꝰ a ꝑsona facta exheredatio n̄ nis
ttt q̄ neque a re

nº 6. Quod observatur qua plures
si heredes instituti ē ab
unu ꝑsona filius ex heredatus ꝑponitur
ceteris si unus sit tatu heres scriptus
ex heredatio ab eo facta ꝯsistit txs ita ex ꝑo
ꝯcludum L si i 2 ff hoc ttº ubi si i herede
instituto filius exeredaverit pater a 2º aut
sustituto n̄ exeredaverit et du ꝑondet an
prior aditurus sit filius de cesserit et casus
substitutionis evenerit sustitutus heres n̄ erit
quasi ab initio inutiliter instituatur eu ab eo filius
[illegible] hereditatis n̄ sit [illegible] impostumo filio ille
acciderit [illegible] [illegible] animo [illegible] [illegible] cuja
[illegible] [illegible] [illegible] aditum erit de exheredatio
[illegible] [illegible] [illegible] [illegible] [illegible] nulla [illegible]
[illegible] [illegible] haberet [illegible] ex heredatus [illegible]
[illegible] [illegible] substituto [illegible] [illegible] ex [illegible] ideo
ex heredatio facta ab [illegible] ꝑsona [illegible] licet
a substituto n̄ [illegible] quia [illegible] [illegible] [illegible]

res conventus erat quoniam ratio est considerate ce
sant de toto gradu ex heredatis facta sit nec
requirit alia poena aqua filius ex heredatis indicat
que scribant bla nostri ... ...
... ... I C ... ...
heredatis facta ... ... cum Paulus ...
no Jason hic ... sarmiento ... ...
entendiere in L 9. ... ... 26.
n 7 ... ... ex heredatoris ex
... 16 ... Ulpian. in
... ex heredatio facta ... ...
quis quis mihi heres ... ex heres esto ...
... ... in L siquis Centurionum 63. in fi
ne ff de hered. instit. et ... ... in L non nunquam
52 ff de conditionib. et demonstrationib. ... ...
... viciosa quia ex heredatio conditionalis ... ...
... ... Iuliani ibi quoniam
... adita hereditate ... ... filium
ab hereditate antequam adita esset ... herede ...
... filius ante aditionem ... ...
institutus nec ex heredatus ... ... neque
... ... remotar quam
ex traneo adie... nec ... ex traneo ... ante
quam ... sit ... heres et ... alter alteri obstat ...
... ... iciens Iulianus recte afirmat ...
hanc ex heredationis in positione ... ...
... ... afirmat in L si ... 16 ff
... de condit. institution ... ...
... ...
... ... 32 ... ...
... C.

Ju huic resolutiōi a. dicantr jura
q cabetr ex heredatiōi cnē. sditioꝫ
ii sis repetus. heres erit alias eo nō existente ex
heredatioꝫ erruere L. Paz 8. § si additioi ad quo
nia adita ff de inofficio tto L. filia 20 et s cum
et heredatio ff re contra tabulas L. Irrigationus 12 § ex
tto ff de bonis libertorum ex sequenti taliter ex quo
nō debuit cedere actu additionale ergo alias taliter
inerat L. 3 de legatis. L. in additionibꝫ 19. § hec sonq
tura L. aliquando 106 ff de additionibꝫ et demonstra
tionibꝫ L. heredis additio 7 § trachari L. sidius 22. L. si filio
22 § ad ff le quando dies legati cedat L. mutu 6 § si addite
ff de tuta is

Hec dispositio ista Ut cesset additio ex
heredatioꝫ quoniam ad deram cmplicitr
aut simpliciter post a patre facta quoniam quoties
filii ex heredat et filiu heredē scribit aut a te
sto effectu nocet iam adita hereditate a filio priori
modo filius mortuo patre statim dicitr ex heredatus et
impedit illa dominium continuatio quod alias ex legis dis
positioe. nē L. in suis 9. titto ceterum ad totalem
filii ex clausis et irritum effectu additio hereditaria re
quirit dicti additiōi de quo cum ex heredatio ex qua tollit
Ut repatr exprimat additio ut filii ex heres sit sicuti
sus aderit hereditatem ante additioe filius nō dicitr ex he
redatus neque heres q. terit adire ereditatem nisi nō du
ex cluso ex voluntate patris quia secundum eam filius
non debet to mobeli post aditam hereditatem id antea ut
Locum faciat heredi quod antea. Validam ex heredatioꝫ

qua adicho c(ontra) licitet t(estamen)t(um) legato dicimus mortuo
testatore statu[?] videre quod substantia ... effectu
tamen et executio heredis aditione requiri ... quia
... legatum corruit ... de hide omitti
... ... lex a ind. § 3 4
... delegatis 1° et l. l. ... ...
... ff. de tutelis cum similibus quod facit ... ...
in casibus inquit illud quod exprimit ... facit ...
... ... de facti et juris rigori
... ... testator ... ut heres ... aut
judex ... tutor ... ... fieri impediment
... Legato aut ... ... ex primis ...
... ... ceteras ... par velit et filii
... ... heres aderit resultat ...
... ... et ... aditio quoad ...
... ... modo exprimatur quo ...
... ... actus ... ...
... ... ind. L. ... Semper ... 63. ... ...
de hereditatibus instituendis ... Barthol. hic n° 6
et in L. ... 22 ff. ... legati ... et ind. L.
3 n° 3 de legatis 1° ... n° 22 ... ...
... ... n° 23 ... Mencha ...
... creato § 20 n° 32 ... ...
... n° 20 ... Robert. 2 ... ...
... 12 n° 47 ... ... § 25
... ... de ... § d. L.
... 3 de legatis 1° ... ... § ...
compilatoris ... videndi ... ...
... ... 12 ... 6. ... ...
... n° 8 ... ... n° 148

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Dixeo ex [illegible] attendens in qui

Deducant ex herendatus factam

inter gradus ib movere filii ab vtrisque gradibus notat Barth. et jason in d. Cornel. in L. de liberis et posthumis in huius oi [illegible] firmatis expendebat [illegible] in eo [illegible] veniunt ex quo scripti [illegible] fiunt post [illegible] nada heredu et ib mobet filius ab vtrisque gradib. [illegible] [illegible] nichil minus [illegible] hec nostri [illegible] sitio n. illa [illegible] ab vtroque gradu duos gradus [illegible] nificant [illegible] sentas erit ex herede [illegible] gradu referri ad proxime antecedentes [illegible] sequi [illegible] vtroque filii demobere nec [illegible] nd [illegible] si reperius [illegible] habeverit [illegible] 4 gradus [illegible] duos tantu [illegible] fuisse et quatuor [illegible] et ideo ex [illegible] posita inter gradus [illegible]

[illegible] difficilis [illegible] L siceo 29. ff [illegible]

Ubi sicebola ea qua tractat [illegible] filiu instituti simus et anobus posthumus exheredatus a institutis [illegible] exheredatus filio de [illegible] parvo cum [illegible] instituti [illegible] posthumus ex heredatus [illegible] substitutus vocatis aque posthumus exheredatus [illegible] [illegible] [illegible] etenim cum posthumus post 4 gradus exheredatus sit [illegible] secundam talis ex mo ut [illegible] inter duos gradus facta consistere debebat ut in [illegible] nostri [illegible] in L siceo [illegible] Ubi siceo et filiu instituti simul et invicem substituti fuerint si imparte substitutionis posthumus exheredatus [illegible] mortuo [illegible] [illegible] [illegible]

exaple

extan herede ee quia nulla alia de caa
pcedere potest nisi quia x regula nostri Tex
ex non facta inter institutos et substitutos utraq
pehendit

n° 13. Adduc tamen respon
solutio defende la e
et ad Tex incl Lrieco respondedur extra
nostra nec factum nec intermedium gradus
cum tm a 1 gradu extra nostram factum fuisse
Ut obstat ex Celole ~~Ubi Uta~~ et anostris posthumus ex heredatus a instituti nostris nisi
ex heredatus qd utique non afirmaret si inter
illos duos gradus ex nro collocata esset cum q
a 1° gradu ex heredatus sit a toto illo gradu factum
substitutus reperitr et in initio huius nostri Tex
unde efficiatur sbtio in parte locum ut eius
sbtitutio nisi sbintrat agnatio posthumus ex heredatus nec nascendo rumpit illum gradum
et re quem totum ttum infrengit et inter
[illegible] parte efficit

n° 14. sed accedens non observetur in
Ubi P. Riego non obstat in nostros
et alijs ex peritioribus omissis recepta est ea
que docet qd cum Tego et tibi institui in vi
cem qd instituti sumus hec institutio refert et
imitatur naturam juris accrescendi et ut accrescio
potius q institutio dicenda sit ut notat Cuja
tius L2 observationum c. 14. Ant. fab. L. 15
coniecturarum c. 20 quo fit ut quis in parte substi

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tertius posthumus exheredatur non sit testamentum ruptum quia non obstaceat nec cum jus acrescendi secunda substitutio michi deferatur titii portio nullus potest esse ruptum locus cum in gradu ex quo succedit posthumus ex heredatus prout ornatur ex quo ratio ad acrescendum reduci solent jura aliis. In ejusdem in lege si quis 35 in principio ff de adquir. hered. cum textu in l. in tertium 30 § 2 ff eodem cum l. 1208 substitution. § 24 ommessio sabo ...

48 Hec tamen interpretatio licet ... nota videatur scrupulum caret quia jus acrescendi ex judicio tacito testatoris ... verior resolutio docet quod recurrit ... positio introducta est substitutio ... ex manifesta exequata testatoris voluntate quae ... valet in hoc casu l. 2 ... ff de ... secundum tabulas ... manifesta testatoris voluntas ut si instituitur pars ... ... coeres ex substitutione adeat igitur non ex jure acrescendi cum quo ab ... substitutio posthumus ex heredatus non sit ... ruptum ... in 2 aliter ex ponit ... de jure acrescendi tit. 2 cap. 4 ... aliter Sarmiento in l. si posthumus n. 12 infra hoc tit. ideo ... sustineri quoniam cum posthumus ex heredatus sit in 1 gradu in quo ego et titius instituti sumus quamvis in 2 institutionis gradu ... sit ... debet valere cum in eo nulla ad ... posthumus non sit ex heredatus quod ... initio ejusdem legis ... ideo rumpitur ... quo ... in locum instituti substitutus succedit ... a quo

posthumus ex hereditate [illegible] veniens rei
[illegible] firmatis eterois adatto expendi [illegible]
in l. i. cod. de liberis et [illegible] ibi [illegible]
heres instituti [illegible] nulla ratio reddi potest quare
videatur in posteriori tantum casu ex herede re
luisse.

16 Sed licet hec argumenti
expositio ut [illegible]
lior a magnis [illegible] in his rebus admi
rauit alius [illegible] fuit [illegible] licet [illegible]
set institutus et [illegible] substitutus naturaliter
unam et eandem personam esse [illegible] tamen una
sed diversa potius iudicatur sicut diversi sunt gradus
institutionis et substitutionis et diversi modo [illegible]
[illegible] quod ex substitutione adit ac quod ex substitutione
gradum enim diversitas quasi duas diversas per
sonas videant ut [illegible] difficulter colligi licet ex
[illegible] in l. i. § [illegible] [illegible] omnino
[illegible] [illegible] [illegible] diversitate [illegible] persona
substituti [illegible] ex hereditate [illegible] [illegible]
deberet eadem [illegible] instituta erat sed diversa licet
abea tanquam ab instituta posthumus ex he
reditate [illegible] [illegible] abea tanquam a substituta
et sic diversa non sit ab hereditate remotus
quemadmodum in priori casu [illegible] sic et
in 2° [illegible] et debebat

17 Quare [illegible] quos
videtur ratio hanc
[illegible] arbiter [illegible]
[illegible] quia [illegible] altero omni
[illegible] [illegible] scaevola in priori

filius ... spetie quando pemoe ego et filius institutis sumus et anobis posthumus exhe redatus e asustitutis aute posthumis nec ex heredatus. simul nos debere adire quia incerto e analteru ex nobis omittere ... quia asustituto qui in locu institutis ... posthumus ex heredatus nec qua inartitudo ingehi secuta nullo modo ... siderari n. licet ego portioq meaq repudiauq filiu' adeundo ... ex asse heres sit cu ... maxime velit por tioq repudiata omittere ... l siquis ... cipio l sideus 38 ... heredatate unde cu posthumus ... qua ... filiu' tanqua institutus adit qua ab illa qua cu sua ... heredis repudiatioq iunta inuenit exheredatus sit nullus rupture timor ... et ideo Vtreebola ... ait ... ego et filiu' instituti sumus et ... substituti quam ... in parte ... posthumus ex heredatus ... mor tuo ... repudiante filio ... adire ... ex hac ... heredq fieri

28.

Sed aduc vrget dificultas ... siderata ... qua varie ... conantr Paul. Castre ... l siquis ... Duare dejure acrescendi ... 2° ... 16 cuja ... obseruatiou ... 14 et tractatu ... ad africanu in l ... posthumus ... 14 infra hoc ... relati a Cardoso de jure acrescendi illatio 35 ego ... judico et licet ... sit quod

tios ragione ubi ir uideretr q. na institut et ubi
veret institut ii et superstantes ex hereditas ubi tam
tuq ab instituto ex hereditas abso ...
...tuto at itta tamen matris voluntate testatoris ...
to eta ... dispositio credatur eu ... quam
...ex hereditate ... ...
idem ... instituti et ... ...
ratio ... hoc casu ...
substitutio ... ut ... eleganter
consideravit antoninus imperator ... cod de libris ...
... huic ... scevola ibi
... in parte substitutionis ex hereditate ...
... ex hereditate ...
... in hoc casu ... ratio
... desitio ...
... Ut ... ...
... inter duos gradus facta ...
in hoc ... inter duos Vlpianus docet

47 ... quid observandum sit
quando ... facta
... gradus ... liber
... gradus hoc e in medio ...
... ab Vlpiano ... videtur quod
... observandae ... ex hereditate ... gradus
... videtur ... superiores
... finalis ...
... ...
... finali ...
... in initio ad ... sequenter ...

[illegible] ante [illegible] ea [illegible] nita [illegible] eam antecede
[illegible] antecedentibus [illegible] [illegible] desitio [illegible]
[illegible] de liberis [illegible] tantis e [illegible] sententia [illegible]
[illegible] firmata [illegible] antecessores
[illegible] in [illegible] non licet [illegible]
liberis [illegible] autentico [illegible] cum deaestato [illegible]
[illegible] [illegible] [illegible] inexerenda
[illegible] ex [illegible] causa [illegible] [illegible]
[illegible] [illegible] volentes [illegible] non
ab origine [illegible] [illegible] militaverit [illegible] L.
[illegible] de liberis [illegible]

Sed licet [illegible] in [illegible]
[illegible] [illegible] [illegible]

Ut [illegible] sine [illegible] ad [illegible]
[illegible] [illegible] [illegible]
[illegible] ex hereditate [illegible]
[illegible] [illegible] ad gradum [illegible]
[illegible] [illegible] [illegible] in [illegible]
hac nostra L. [illegible] si ex hereditate [illegible] post
[illegible] gradus [illegible] [illegible] retrabeo [illegible]
[illegible] nec [illegible] intelligit a 2o gradu [illegible] hac sententia
[illegible] fundamenta [illegible] [illegible] maioris
[illegible] [illegible] principio [illegible]
[illegible] [illegible] in [illegible] 93 [illegible]
[illegible] quia ex [illegible] Bartolus [illegible]
[illegible] argentarii 7 [illegible] nº 20 [illegible] plures
[illegible] [illegible] [illegible] Peralta
[illegible] principio [illegible] nº 166 [illegible]
[illegible] ex [illegible] [illegible]
[illegible] [illegible] ex hereditate [illegible]
[illegible] in [illegible] gradus [illegible]
[illegible] [illegible] [illegible] [illegible]

[illegible] ... institutis et [illegible] manifeste [illegible]
[illegible] ... Sanar [illegible] ... vite [illegible]
[illegible] ... [illegible] ... [illegible] nere
... gradatos [illegible] ... [illegible] ... ex p[illegible]
... [illegible] ... [illegible] aliter ex [illegible] ia
... [illegible] ... rationem vna

Xime

Dubium est [illegible] Vitianus [illegible] et [illegible] [illegible]
[illegible] habeo [illegible] [illegible] potestate [illegible] et
[illegible] parem [illegible] venerit et scriptus reperiret in [illegible]
[illegible] inter cetera [illegible] nanque [illegible] ipsa [illegible]
[illegible] hic intelligendus est [illegible] quarto vero
[illegible] gradus [illegible] [illegible] et [illegible] [illegible] filius
[illegible] reperiret cetera [illegible] gradibus a [illegible] de
[illegible] a [illegible] filius [illegible] [illegible] ex herede
[illegible] gradus [illegible] scripto habere et [illegible] a 2º [illegible]
[illegible] [illegible] iura in [illegible] similes 7 ff de [illegible]
[illegible] 75 ff de heredibus instituendis [illegible] facta 43
[illegible] [illegible] ff [illegible]

Nº 2º

Inveniendam tamen [illegible] [illegible]
insistit [illegible] nostri extante maxime

ｰ 51

dentro textum l. n. et iis § finali ff de iniusto rupto
Ubi porthumi ex hereditario facta in 2o gradu in subsequenti
... valeat et ab eo incipiat de tota corruit ...
o ... facta in l. gradu ... difficilis ... ter
... porthumi ... debeat ... ad ... de ...
que filii ... nati ad nulla ... ex ... est
Bartoli ... potest assignari ratio ... filium in potes
tate ... qui ... ab initio ... nudus est
secundus nunquam cepit pendere ... sequens ...
... proinde habetur ... gradus ...
fuisset ceterum ... in quo porthumus ...
... gradu ... necessario ...
causa ... ex hereditario ...
ff de iniusto rupto nascendo ... illum gradum
ab initio ... rumpit ... sequens ...
rumpitur ex regula ... Romanum ... ff
de iure ... capituli ... de regulis iuris
... stipulatio ... recepta ...
promittis ... nomine pene ...
... spondes ... stipulatio ...
Filio ... nemo possit
... nullum ... tenet ... Lucius
... ff ... obligationibus
... stipulatio in qua ...
... pena ... obligationi ...
accedat ... obligatio ... homine ...
morte que et principalis ... valida ...
... accessoria ...
eodem titulo ...

rec intre id deberi rumpi 4 gradu vulgari excepti secu lut
n pendet a resistentia primi omis a seius defectu incipit
locu habere eu quandiu instituto locus e substitutus
n admittatur quandiu 3. ad adquirendam hereditatem. Igit
adeo eod .. respondeo qd licet quoad effectu
substitutio vulgaris n pendeat a institutio. tunc locu
habeat eu institutio defuerit accessoria tame dicitur l ins
titutione quoad fieri quia n potest fieri quin precedat
institutio p[ri]ma, n l t f de vulgari recepta communiter
ex regula: hoc si eni generalis stipulatio dicitur
se principali n exemplo seq[ue]nti numero
... minus ad hoc de feudu habeat et exea
ad ... requiritur qd ... in clementia prioris obliga
tio ... ... in gradu insti
tu... qui tempore ... ... valebat ...
... substitutio que ab ea pendebat ... institutio
... ... n fuit ... forma
legis ... ... locus fit substitutos ...
hereditas ad eu ... ... cu forme
... ... gradu incipit mero
jure ... ... 2° loco fuerit scriptus ex de
fectu prioris ... ... de secundo ... dicitur
... dicitur ... cu antecedi. 2
... 34 ff de Vulgari ... primus 92 ...
... ex ... ... questioni ... res
ponsio ... ... 4 ... ...
... ... 10 n 3.
Contrariu ... hanc resolutionem ...
... ...
... ... institutionis

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L. de adquirenda hereditate § sicut ... ta ...
favore promereatur partes obtinere Vide ... de
quead ... ex ... ...
... parte substitutionis ... et ... Lem
... substitutionis et contrari facit L. ... liberabunt
43 § ... ...
L. si quis heres ... quando in substitutionis ...
... cum ... accedi ... quia ... agnovit
sua portio ex instituto tenetur ... agnoscere
ex ... ... et invito ei portio accrescit
... ... casu heres ... ex ... ...
... non tamen inde sequitur ... ...
... ... nam ... ...
... respondetur ... substitutio ... ...
... et ... paterni ... § liberis ... ...
... et tunc ... habet cum ... heres
... substitutio ... ... fidei commissa
... ...
LL § ... ...
... ... fidei commissa
... ... hereditas fidei commissum ... ...
... ... vulgari ... substitutus ...
hereditatis ... ...
Hec ... resolutio ... ...
... ... § si ... ...
... ...
... ...
hereditas ... substitutio ... ...
In ... ... quia e ...

secretive e[illegible] ... nao institui [illegible]
sit a sublitatis ex hereditaris [illegible] in done
leos in hereditati ee nostrae subrogit q[illegible]
vitant [illegible] te ... eu grades [illegible]
herei[illegible] n. eo ex her latuse ex gg [illegible] et [illegible]
humo [illegible] a 2º gradu incip. re aouo ex [illegible]
[illegible] aquo p[illegible]entur reseruto [illegible] gradus [illegible]
[illegible] de belu in gradu[illegible] pudentie [illegible] ac aliter [illegible]
[illegible] [illegible] puta quia [illegible] non [illegible]
nunir [illegible] posthumi natilitate [illegible]
trina [illegible] tradita [illegible] n 2º [illegible] exced[illegible]
nat [illegible] naturalis primus gradus defecit post[illegible]
[illegible] postea natus gradu[illegible] defecit [illegible]
tat [illegible] l. [illegible] finali [illegible] decr[illegible]
do [illegible] post defecte aute [illegible] natus posthumus
gradu [illegible] quia nullus [illegible] [illegible]
[illegible] 2º gradus [illegible] sine sustentia prioris [illegible]
[illegible] [illegible] fungitur [illegible]
[illegible] meus [illegible] sentencia [illegible]
[illegible] bene [illegible] Sarmient [illegible] facit [illegible]
[illegible] [illegible] primus gradus
[illegible] mutus [illegible] incepit ex [illegible]
[illegible] Lexis satis facta [illegible]
[illegible]
[illegible] Constat tamen huic [illegible]
[illegible] [illegible]
[illegible] post mortem [illegible] tabular[illegible]
[illegible] a 2º gradu [illegible] ex [illegible]

et primi heredes morian̄r, et debeat o[mn]ino ss
qua scripti non adhuc va[...] gradus nec devolvitur ad
non inquo exheredatus est ex barbaro hic 3a restitit
satisfacere huic difficultati conantur Jason n° 13 cum
mero 14 Decretum ditu [...] licet in tempore mortis p[...]
cedens initio emancipato cum preterito nullus
[...] et ideque eo quod in posthumo distribut[...]
observatur stricto scilicet in gradu mero iure [...]
agens potentius est rumpat et sequentes gradus [...]
quod non emancipatus posthumo [...] equiparatus
non debuit agere contra tabulas mortui heredibus in primo
scriptis [...] que posthumi denegatur [...]
[...] et [...] final [...] [...].

Vide quaestionem dum [...] emancipatus
preteritus a [...] heredatur a 2° gradu
posthumo [...] preterito [...] exheredato [...]
[...] aliquando [...] differre etenim heredes
scripti in primo gradu deficiant ante mortem testatoris
[...] incipit a 2° gradu [...] in principio et [...]
emancipatus [...] non poterit rumpere [...] tabu
las sicut nec posthumus [...] [...]
non vivant [...] [...] [...]
[...] tamen in eo quod heredes scripti testatori [...]
[...] ante nativitatem posthumi aut
[...] que tempore mortis [...] deficiant
[...] posthumus in utero [...] nacto cum nasceretur [...]
[...] [...] final emancipatus [...] contra tabu
las rumpit [...] si post mortem et [...] si
defecerint [...] ratio [...] in posth
[...] rumpere [...] eius nativitatis tempus [...]

§ ex his apparet quod de iure de iure rupto est
vis in filio praeterito ad hoc ut ei competat contra ta-
bulas sive inspicitur ante tempore mortis testato-
ris quod tale fuerit ut ex eo aut adibi hereditas
aut bonorum possessio contra tabulas peti possit tamen
si nec adita nec petita possessio Renati Tillius I
qd Vuigo ff de B. Tabulas quaesitur si heredes
testatoris inveniant Editio pendeat tempo-
re mortis, quamvis licet postea moriantur antea
dita hereditate nihilominus emancipatus
ab eo gradu contentius potest ea petere cum
ad ea petenda sufficiat validitas illa quae
quod tempore mortis testatoris videatur. ut
antiquiores cum in dictis juribus docent Do-
net lib. 7 commentariorum cap. 14 ubi omnes in
notis plures refert
n.° 8 Quae adhuc supponit aber
videtur lex in l si primo
in infra hoc titulo ubi ponponius docet quod si
1.° heres institutus filio pater ex hereda
verit a 2.° autem substituto praeterierit et aluque
det an prior aditurus sit filius decesserit si
erit 2.° heres quasi ab initio inutiliter institu-
tus cum ab eo filius exheredatus non sit ex quo
videtur contentius filii quod conjunctim procedere posse
fuit quoad gradum in quo posita est et cetera
quoad eum in quo filius exheres factus est si
dicendum est illius lex decisio procedere in casu
quo loquitur quando remansit filius exhe-
redatus decesserit deliberantibus heredibus l°

[251]

loco scriptis et non firmata ex hereditate
eorum actiones ... Papinian. 8. quoniam
ff. de inofficioso testamento l. filius 20 ... ex hereda
tio ff. de ... Tabulas quo in casu l. gradus non
potest judicari nudus ... filij morte ...
ante ex hereditatis ... confirmatos neque recedere
potuit ... filij ... heredes
... dicentem ... successio
ad ... l. quis 6. in principio ff. de
injusto rupto ... si ea ... commiserunt
... adiectitiae non firmeat quasi ab initio inuti
liter substitutus ad patris proximiores tempore
quo destituit ... successio spectavit ...
firmat ... infra hoc ... l. quis 6. ...
... in l. ... hereditatis lo
ff. ad ... Vald. ... tem
pore quo filius decedit hereditas ... in
gradu ... filius decedit hereditas ...
... nullus ... nullus potest ei
tere et ... neque ... heredibus ... rius
juris transferre non potuit qua ... erat
l. traditio 20 ff. de adquirendo rerum dominio
l. nemo 54 ff. de regulis iuris ... Bal
di ... doctrina procedere ... heres ...
heredes ... filio hereditate ...
... tamen si filius ... decederet tunc ... he
reditas ad ... heredes spectaret transmissio
... nudus ... post ...
n.° 7 et in l. si infanti n.° 19 cod. de jure deli
berandi Benedictus ...

Pag. et 2º nº 49 dettis Sarmient ind. l. si
nº 2º Gomez i tomo quo nº 3 nec obstantibus fa-
cit tacend. l. si ex hereditatus quis excedit
quoad illud senat. consultum nº [illegible] q. quod ut
eo quis utatur non requirit litem cum sic heredis
se iaciet in eo et hereditas ut agere alligetur
ex tiu in l. si ff. domini dictº eo grato et ongr.
Pat. ff. illo ho

nº 20 Ex quo principio intra-
tanda et expediendum
e di iecte africani responsum in l. si posthu-
mus 49 dictº in et cum duobus heredibus in fra. l.
ho ubi nocet qui si duo heredibus instituti cum in
singulorum locum facta substitutio a primis ex here-
datur posthumus a neuquis praeteritus fuerit sicut
ex institutis omnino nisi quamvis posthumus
excludatur non admittitur institutus qui utrum
c agere pugnat cum tex. in l. ergo 19 ff. de
iniusto rapto ubi in ea de yectis posthumus
non excludi si rumpendo succedit dicendum
tamen e ind. dictº nº et cum duobus mortuus fuisse
posthumus antequam a i. herede fuisset hereditas
repudiata questio enim ibi erat an de liberante
l. aquo posthumus ex hereditatus erat si
ipse posthumus nisi volante postea i. an substi-
tutus aquo praeteritus erat ad ditatus qui negat A-
fricanus in dictº imo et legitimos successores ad-
mittit id q ex hemplo significat ind. dictº nec
cum duobus ubi docet quod licet quod licet post repudia-
tio primi heredis posthumus non admittitur quia

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mortuo iam erat alius substitutus non habet admitti nec
ex hoc sequitur quod posthumus viveret non admi
teretur ut recte nebola docet, ond. l. negocio 19 ff de
iniusto rupto

N° 22 — Sed obstat quod si posthumus in
dicto 4° casu et casu duobus decessit
de iure ut subsistere ex dicto textu in l. post
humus 12 ff de iniusto rupto ut per gradu quo
posthumus preteritus est convaleret morte superius
quod et advertit l. legitimam 2a parte domino
Rafaele dum discriminat inter prius facta et habile
respondendum est ond. l. posthumus posthumum
vivo patre decessit in l. in primo 2a parte
mortuo iam patre et in ubi illud in l. in primo
ibi vivo patre coniungendum cum illo natus non cum
vivo moriatur ut sensus sit quod natus fuerit vivo
patre mortuus vero non vivo et in ubi post morte
patris nuda facta est morte preteriti convalidari non de
bet diversum vero procedit cum vivo patre posthumus
mortuus est in licet fundi ex dispositione nimia
que subtilitate ubi ruptum videatur et neronz to in
legatorum sustinentur l. 1° posthumus de nelas ib.
comentaria in q. 13 ubi moralde. lit.a c. et q.
16. litera p. faber q. vecturam vigesima
in Papinianea tit. 22 principio q ullato

Aquibus absolveris
hic 4-1

ad sequentem ...

AD § in textu su
is hoc tt°

Successores qui ex ultimis morientis elegit, sine ... ab ... deficit ... eodem modo solent adquiri ... velit nolint ... voluntate intercedere ex quo heredum qualitas sibe differentia ... necesarij dicti filij voluntarij ... dictio ... duo ... evidentes necesarij absolute ... necesarij ... filij ... 42 ... heri ... necesarys 57 ... de adquiren. here ... legitim here ... a domino ... de hered ... de heredum qualitate ... Coman 10 ... C.S. ... succesi ... Covarruvius ... lectionum ... ubi ... in notis alios refert.

Ceterum nos heredes partim jure ... voluntarij testatoris ... heredes ... liberi ...

2°

sibe ex t[estamen]to sibe ab int[esta]to ad hereditatem vocati qui in sua potestate morientis fuerunt ex q[uo] n[on] e[st] grave tunc cum sit incipit hereditas eis deferri … de here[d]itate … ab int[esta]to … testatoris hoc e[st] patris … hereditatis … filio … aliter … heredes … sit … necessarii … sua … heres ex … Cornelius 69. L … 96 ff de hered. inst. L … hec 12 ff de … inst. … 6 c 12 et 19 … in notis.

N° 3. In his q[uae] … necessarijs hered[ita]b[us] … hereditatem neq[ue] … dominium … sibe ex t[estamen]to sibe ab int[esta]to patri succedat … habebant in vita patris … Paulus … in hac nostra l[ege] … Celebre … Albericus … Paulus … Jason … filios … heredes nominandos … Banc … comprobando … liberos … heredes … dominos … patre ex … filios familias … ad modo … familias nominantur … verbo … communes … suos … significatio est exposita.

in q Pronunciatio – 9 § 2 ff de vero de bono
ex legatione. ex quo Paulus infert patrem
ab eo in eodem distinguit quod alter furiosus
alter quasi his … mortuus erat esset comparat
cum filii qui in potestate mortuus fuerunt
ex scriptis institutionis, nam mortuo patre
ipso iure communicant, d. institutionis de
hereditatibus quae ab intestato et quae praesentis
nullius est … lib. 7. lib. antequam tertia … 9.
… in alia de causa accedit nisi q …
antea … l. … patris … domini …
fuerunt aqq … expectatione …
modum … l. cum ratio 7. ff de bonis
damnatorum late Tiraquellus in q. Palingua in
principio n. 2 — Cod. Giscardo comitis …
… in contractu … Jeniguram
33 et 40 an. 99 Antonius fab. de …
…maticorum decade 73 errore 10 … …
et … relatis

n. 4 —

Quod … magis … qui sententiam suam

Paulus confirmet … validiorem videtur …
aut … rationes emendo … asserens
in … quod … patris …
… dominis …
sententia consulto … Sanctis …
Paulus satisfacit … ratione Paulus
… ratione …

administratione quando aliorum bonorum eisque qua possessione indubitati bonis dicti admini-
stratione et vindicare sibi bona ratione possessionis
in aliquam possidere. necessario dicendum est
quod filius mortuo patre consequitur aliquid quod
[illegible] non habuit et [illegible] [illegible] bonis [illegible]
[illegible] [illegible] antea [illegible] [illegible] satis [illegible]
et in consequentia bona que omnino [illegible] non fuerunt
sed dominium liberam administrationem quam prius
non habuit

n° 5

iterat declarato
in qua possumus in-
telligere ansa filius
facta post mortem patris
effectus dominus de eo
[illegible] respectu [illegible]
adquisito bonorum
et respondet dicendum
[illegible] liberam admini-
strationem

Denique satis facit Paulus
correctioni que taliter
procedit: filius invita patre dominus
[illegible] in [illegible] eius experiendum [illegible] dominii
quod non bonorum antea habebat sine voluntate
habere [illegible] magne correctionem ex mente
Pauli [illegible] satis [illegible] bona filii: intramen
permissum est patri propria auctoritate et potestate
cuius [illegible] removere [illegible] videatur inde nunc
ex lege cuius ratio de bonis damnatorum, nam patri
[illegible] potestate filium expellere liquet constat
[illegible] [illegible] tam [illegible] [illegible] quasi vitam
etiam [illegible] potuit iure proprio filio vitam
admittere et eo quod dominio [illegible] infra [illegible]
[illegible] legatria potestate [illegible] multo magis potuit ad-
mittere bona que filio intelligantur constat
ex his filios familias [illegible] vivo patre bonorum pa-
ternorum dominos existimari et quod dicitur
patri [illegible] magis ad administrationem
liberam bonorum referri quam prius non habebant

n° 6

Aperiamus Pauli Zen sui Ussperien. in paraphrasi

nostri tis litteras ex forma divinis sedantis qua, Inius clupitatione progreditamur illeminus in hac futuris materia que de apicibus anis bris agelater quod sup. n° 2 tetigimus ut ex ipsius exolvemus cerstet quem sint sui heredes de quibus Paulus imprasenti et cui cuius fuerint aput platis quod quam disposuit ex eo colliret ipsi lost quod Angelus hobutiano e benise loritur et cuius Cumenus lactaret inglosematis Juriscibus et a cursius superaturus interrogatis amariano sosino Juniore quis sint heredes lit. cd multus jenti ubi adverterunt angelus expansquid lib. singulari dicto gallus pagliaqula n° 42. Alciatus, de vel de verborum significatione ad hoc, antonius corpus lib. singulari dilenedus et cremonus nopelius Pagina 18. verum ego ex mente tam Juris consultorum quam Justiniani. qua ad testabili causaz ex justimo sui se orbes sel liberis qui tempore testatoris morientis fuerunt quos quod tunc nemo proximiori gradu ante sese: liberi intelliguntur, sive natura les hoc l ex lustis nuptis procreati. sive adop tivi. lui. sui. 4 degitis eleguimus here des ex intestatione, intre. instituti. eg de hereditatibus quedam intestate sibi. primi gradus aut illius vel plus sive sequendi ut nepos vel neptis.

Concordat cum abbe opinione ex per missuas esse f insti. instione, ex de tute lis. lg liberi so ff. de significatione lib. liberorum ff de verbarum significatione hoc titulo.

habe Vipernores Vi p[ri]mo de hoc eo et inpaupe ex filio descendentis s[ecundu]m iur[is] de heredum qualitate. Col[legi]o s[upr]a antestatoru[m] s[e]d etiam de heredi[ta]tib[us] q[ua]e ab intestato

n.o 7

Prevenient et inpupe... iur[is] heredes marito vxor. que matrimonii causa in eius manu com venebat et nuptis que in manu filijque pater patria impotestate habebat. Vlpiano teste in fore de inst. ... ... antiquitatis ... ... can 6. Eius impotestate redeant Patria quam habes romanis antiquissima romulo ... ... in filios habebant qui eis in matrib[us] inde tam filij ex extraneo et in sui ... illud 4 ... ... et legitimi heredes ... feminine institutionis de ... ... institutionis de heredum qualitate

n.o 8

Diss impotestate morientis ... eo tempore quo defunctis moritur oportet ... impotestate ... quo ad causas testati et ... loco ... quod ad ... ... intestati ... tempore quo destinatur ... nemo proximior ... antecedat ... filius ex heredate ... morte ... tempore ... proximius impotestate postea tamen ... ab intestato ex ... ... extraneus reperiat hereditatem ... nemo esse ... ... extraneo deliberante ...

Oppositum

[illegible]

Ult.ª q.ª

Proxima ... ita inter pretandum etc. recommenda-
tionibus filius posthumus ... vocatur
... filio ... Rodrig ...
... testamento ... Ant.º ...
... Cesius et ... Girardus ...
... institutionum ... heredes ... ab intestato
... Curiarum ... in capta
... costa ...
... paternis ...
... Covarrubias ... commen-
... cap. 2
Antonius ... 1588

n.º 9

Haeredes dicti proximiores
ori gradu an ...

Et deducta ... ex diverso ... filio ...
... quo minus ... dicatur
... proximiori gradu ... in potestate ...
ante ... in ... curante filius
ille ... in antecedenti gradu ...
... subiecto ... praedicta ...
fraementum ... consi sententias ...
conveniens erat ... sequentes
ad inventores ...
... ...
... sequentibus ... Cesius et ...
... ... iuris ...
... heredi-
... capu. infe-
riorem ... 2 ...
Cesius ... institutionum
... acceptationi ... conseque

ipsi ... filio
6. ...
... ...
... ...
ex ... ab ...
ex ... et ...
et ... ...
de ... ...
... ...
... instituta
... ...
... ...
de ... ex ...
... 194 ...

de hereditate re delata intelligendi sunt, ut

citatum incisione cum gloss. arg. text. in d. l. hunc

tamen in verum est quando ab intestato nam in he

reditas delata est quod exaliorum protendit

ad illud tempus quod desinit ut supe

rius dixi, ex quo apparet, et sic potest

suorum debito ut pote, inter aut ex progresu cap. aut

propter successionem in locum suorum quam repraesenta

tionem nostri vocant, ex sententia consequentur

bartoli et aliorum in l. ut instituto, § cod. de

suis et legitimis et in autentica post fratres cod.

de legitimis heredib. Petrus Surdus in suis addit.

ad l. cum filius institutio, ff. de hereditatib. quae

ab intestato, Otto mannus illustrium qq. cap. 2 sasius

lib. 2 responsorum cap. 7. Peralta in l. 9 cum ita ff.

in fidei commisso ex ordine de legatis 2 Daniel

et Consiliis ubique ra.

Quad 2ᵘ. Unde utrum nomine

filii indictum fuerit varie

[illegible]

sunt nostrorum sententiae aliae existimant

ita ea tam verificatur cum succedunt quasi suos heres

sit, primo et domesticus heres, sicut erunt nostra

patris casu de Varros [illegible] in verbis vide

torrese, Caned. ff. de verborum significatione, l. quo

tutela [illegible] nemo heres filius [illegible] quod etiam colligitur

ex text. in q. [illegible] habet ff. de verb. indicatione verb.

patris, ad [illegible] cap. de [illegible] potest filius vin

dicare. Candidatus autem non nisi anore magna [illegible]

tat [illegible] ergo [illegible] eodem. [illegible] sunt here

des dicit arbitramur quasi [illegible] heredem

quemadmodum mea [illegible] qui [illegible]

sunt et heres [illegible] ceterea [illegible]

dicitur sui heres qui sibi successit seu qui se ipsum.

[illegible] Savet suo [illegible] [illegible] ia [illegible]
[illegible] [illegible] [illegible] [illegible] Cam in
[illegible] [illegible] [illegible] Verba [illegible] [illegible]
[illegible] [illegible] [illegible] dominae vona [illegible]
[illegible] ratio [illegible] Cervonij dam natum [illegible] Cervini
[illegible] [illegible] [illegible] [illegible] [illegible]
n° 2 et unde [illegible] [illegible] [illegible]
[illegible] [illegible] commentariorum [illegible]
Carrasco [illegible] [illegible] cap [illegible]
et [illegible] [illegible] de servitutibus [illegible]
[illegible] [illegible] cap [illegible] Co
nellus [illegible] commentariorum cap 20 [illegible]
[illegible]

n° [illegible] In hac [illegible] contro[illegible] ha[illegible] utraque ratione con
[illegible] [illegible] [illegible] [illegible] imperatorem
[illegible] de servitutum qualitate [illegible] omnes
[illegible] et [illegible] quod [illegible] quod ad
modo dominii ex [illegible] post Bartolo
[illegible] Paulus [illegible] et Cassius [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] Quaren [illegible] ad [illegible]
[illegible] [illegible] Donellus [illegible] cap.
[illegible] omnes vere [illegible] [illegible]
[illegible] [illegible] vere [illegible] dominium [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ex ratione natura
[illegible] dominus [illegible] [illegible]
[illegible] [illegible] dominus [illegible]
ratio Cervonij dam natum [illegible]

vnius questione verborum quodammodo con
proprietate [illegible] constat [illegible] de
fideicomisso ex quo [illegible] rationis
declaratio [illegible] nos vltimi [illegible]
[illegible] ex erudatione [illegible] qui
[illegible] verborum domini appellat in
sententia [illegible]
[illegible] commodatam [illegible]
[illegible] quia [illegible] questione ex qua constat
[illegible] dominium [illegible]
[illegible] [illegible] reclamatione [illegible]
[illegible] relata [illegible]
fuerat, [illegible]

[illegible] et superioribus [illegible]
[illegible] rogatione continuatio [illegible] communem [illegible]
[illegible] aditione
[illegible] sed communiter [illegible]
ante [illegible] habere continuatur [illegible]
[illegible] impotestate [illegible] omnia [illegible]
[illegible] necessariam adeo ut [illegible]
[illegible] possidere [illegible]
quam [illegible]
impotestate [illegible]
[illegible] commissarius libertatis [illegible]
tenetur libertatis directe confirmemur [illegible]
abstineat [illegible] modo in confraude [illegible]
[illegible] proponatur [illegible]
manumissio [illegible] et substitutio pupillaris [illegible]
[illegible] de vulgari [illegible]

adquirenda hereditate ante ea delata perveniat
occasione relicta seteras omnia que faciunt he-
redi ex exigunt sine suis heredis ex substantia con-
formantur, cum sine ullo eius facto solemnis jure po-
testatis suae eius, in auctoritatis patris heres existat. Cuja-
cius lib. 26 quaestionum Juliani in repetitionibus
ad tex. inde lege filius 4 ff. de adquirenda here-
ditate. Costa in cap. si pater in verbo defferuntur
nº 2. Petrus in suis Antonius Fabr. de erroribus
pragmaticorum decade 32 errore 7. Franciscus Sar-
mientus in [illegible] nº 12. Cornelius lib. 7 com-
mentariorum cap. 2
nº 13.

Ex quo suum principium
filius qui in minoritate et illud esse fuit quod si pater
tunc adeo que gereret ut hereditatem filio restitu-
at, et filius sibi suspecta hereditatis dicat po-
terit ex senatus consulto trebelliano heredi-
tas restitui, adeo ut et specialiter quaerit filius
actiones quae ei etiam competebant ad ipsius [illegible]
heres seruanter ut specialiter Costa in legitimam
27 § si pater ff. ad trebellianum quod in aliunde
quam ex superioribus procedit, cum ex substantia
sui heredis omnia quae ultimo a patre ei compass con-
formet operatur esse fidei commissi operationes
adeo ut per restitutionem actiones ex fidei commissa
rias transferantur, ut quod sine ulla omnis homine ad-
quiri ne perierit Costa. Cum sine ea actionem translatio
fiat, ut cum clarissimo Paulo et Cumano communiter

vt Ilsi animat. veniunt Antonius Faber ubi
conicetur ...

nº 44 Sed obstat non placabiliter.

Consistit vigilantia ...
... sed et ad hunc ff. eod. ubi
... Senatus consultum trebellianum ad filium in
... etate constitutum ... et adsciscenti nec
... taliter ut ... compellantur ... se
hereditati ... re ... quod ... fuerint.
transtulisse videbuntur actiones. ... in
... casu ... ne ... et ... quod
et ... in ... universale de
que ... expressione obligate ...
et mediums ... restitutionis requireret ... 13.
§ sed et ... 37. ff. eod. tit. ad trebellia
num ... in restitutione filii ...
... manifestum videtur.

nº 45 Atque ... tanta ...
... efficacitate operat.

Omnia tentat ... restitutione ... necessaria
... existimat, nisi forte postea facto probetur
filium restitutionis tempore emancipatum fuisse. tota
restitutionis potestas ... et ... fidei com
missum ... sed ... est ... consideratio
... restitutio ... tempore, et ... ex post facto que
... est ... emancipatus sit filius quidem
... hereditate ... nec
... quod postea probare ...
... tantum quod sit ... etate et tempore quo

... aliqua
...

Deserviet alioquin. insertis etiam omnibus requisi-
tis que. Sortiri aut fidex stabilire que oportet
argumento ff. l. in rectione cod. quod enim
Et de casibus quam aliis ex capitaliis et de reve-
rit Acciarius cum in integer dote filiarum
tate hereditas bis tituli qui se ab illa iuveniat transferre
in alium omnino alteri. Sed id dicamus ceteris
uno sic constitat ut in fidei commissarii potes-
tate sit an filium eius commendandum. cetera deducto.
nec in qui etiam ratio, suppleri non potest quia
potent. in fidei commissarii. voluntate ipsius
potius, forma ratione. et maiestate sequi debet
n.° 6. Vide Antonium fa-
ber. tit. 7. consecuturum
Cap. 7. nobam differentiam inter filium famil.
his exemplum. o secundat cum de fidei commissa-
ria hereditate restituenda tractatur. in filium
a patre heres instituitur rogatus sit hereditatem
restituere, subiectam. Cuneari etiam ipse in omnibus
querat potest actiones ex fidei commissaria. tra-
nsferat. Cos. pater. in filium et enim, si se abstri-
nerat heres remanet, quod sufficit ut actiones ex
ex fidei commissarium transferre possit. secus
ubi obsidentur. ubi ex commissat in requisimus
sit ex in ipso ad hoc ut actio res transfer-
rantur. sed potius quod nullo eorum secus beneficiis
est ubi desinere potest quod tamen predi-
ctum videretur. exemplum ... recusantes. ... ad rem
quod ut fab. confirmet ad evertat ... ad rem . . .
sed ad filium in ... quaerendum. sed potius
aut. et ... possidenti de eo iuris consultis

C. 27. Gadys ff

inquirit anistinatus consultus prevoli
carius qd de constituto herede legitimo an
illo etiam locus habeat et veniat lex aut ex q
ratione merito ut ad intestatorum sic legitur, in intes-
tatos perveniat successoris sive legitimi sint sive ono
rarii sed et ad filius qui in potestate est qui nec hono
rarius neque proprie legitimus sed suus heres est ex quo
infert qd ut qd modo g intestatis ex causis legitimis
ut arcetione commendanter ... ... in lege
ad filius impotestate constitutum referendum sed
ipsius ... ad exteros necessarios seu heres sibi et
cum libertate heredes scriptos admiserunt puc
narrent suis ... inquo interpretes omnes
miserere ... advenerit ... suos
heredes ... praetorem ut se commisceat et postea
renuntiant

nº 27. Sed hec fabri sententia
ex multis displicet quia
sed certa ... sed ad filium sententia communi
...at que tam in pandectis quam in vulgatis
codicis doctoribus sequitur se et ad filium eius
habet, et contra fabrum ponderes ... et
intestatis necessarios que ad eos evidentia relatio
cum fasciunt et aperte probant in superioribus
de necessariis ... hoc ... in potes
tate constituto ... agreditur ...
... ... inserte cons
taret nullus ... ... habere
... ad viciatur ... expressas ...
... ... sit ... ...

Ut Regina hereditatis ds. Vbt Paulus im-
missionem subheredis requirit doc ut ex tre-
belliano senatus consulto actiones infidei
commissarios transferantur

n° 8 — Petenij claudius [illegible] fideiq [illegible]

Iure fide commissorum cap. 3. licet dispositione
inter Julianum et [illegible] et paulum [illegible] ita
tamen [illegible] Judicat. ut Decianus Julia-
num semper [illegible] aequo [illegible] ita tamen [illegible]
in Cum fini Juris [illegible] necessitate immix-
tionis [illegible] Julianum [illegible] que [illegible]
ex repetitione [illegible] [illegible]
[illegible] necessarii [illegible] et [illegible]
[illegible] infra [illegible] quoniam in-
[illegible] dispositionis que [illegible]
[illegible] accursius [illegible] ita tamen [illegible]
[illegible] coniecturis [illegible] in notatis
ad Danielem [illegible] cap 22 litera A infine

n° 9 — Que si minus adiuerint,
dicendum ex [illegible] tre-
Ex senatus consulto bellianio.

que [illegible] Pretoris Jussu [illegible] ante
[illegible] nulla fiat mentio [illegible]
[illegible] ex trebelliano [illegible] que [illegible]
[illegible] casu [illegible] [illegible] itaque ex
eo [illegible] fieri solebat [illegible]

trebellianæ Senatus consulti seu Pegasiani
quod sed si rogauerit ut restitutionem desideat com
missarij hereditatis neque obstat si regendo
quod ipater suspecta dicere hereditatem ...
usque sufficere ille soleat ut heres restituendi
cedere compellatur ... exemplis illustrat ...
nimis confirmatis ... pagina ... in ...
at dicitur inde ... ipater conclusione inter
venire cum ... mentio in fiat neque natus
consultum pegasiani sed solum trebelliani nec
implicat ut ipse sui gerat dicat hereditate
ea ex post facto ex ponte restituat namque
vis hoc in licet ei quod semel repudiauerit
cum quod solum suspecta dicere in statim
repudiat sed solum ut se bene de hereditate
sentire afirmat ... quispiam quamdam
se abstinet aut ... si non le fidei commissarij
tenui ... restituere namque ... apre
here potest ... si sermonis ... et restituere
... ex ponenda ... recusare ...
quod sed et ... ...
cum eo
n. 20 Omnis Restitutio ex eo
Praetermissi indulgentia filius ... se
ab hereditate patris ... heredem habe
... neque ... ff. de adquirenda
hereditate ... nec emancipatus ... ff.
de legatis ... restitutio autem hereditatis

[illegible] [illegible]

Quoniam negabat ipsa ar. hered. quod impri-
mis ins Instructionis de fidei commissariis
hereditatibus, necessario gravator filias recusan-
tes et restituere nolentes de hoc compellere
utita eas pro herede habeas, cogat restitue-
re hereditatem aliis eius sicut ipse gra-
vator. peccaret quod sequi est quod filias licet sus-
pectas dicat hereditatem illas tamen restitue-
re pagatas nam castume Iure satis hoc est
et [illegible] hereditatis restitutio fiat, quod resp.
statuta restitutionem de fidei commissi hereditatis
lii restituto 17 ff ad trebellianum filias autem
impositam testate eodem iure in pectore heres semper
maneat, ad lex cum quasi 30 quod fid et si sal. ff
de fidei commissa tris libertatibus nulla me-
liora in animo sunt nam sufficit heredem ex
eius quod ipsi fuit ei in alia 22 quod fina l. ff
ad trebellianum, ideo quod omnia quae ad
restitutionis causa requiruntur interbe-
ne intelliguntur cum heres de restituenda
hereditate gravatus ea in mente in animo
restituere habuit

n 22 Nam magis hoc posse
tabem causa necessarie
ex praetoris autoritate.

Cum apparere dixerim ... et Restituere ... a Remo ... rogo ... ut ... Paulo ... qd casu ...

22 q. 2 et 3.

n. 22

Constat ex dictis ...

[illegible]

Dum tamen ampliari cum res non pateret, ... jus tunc ... quod ... confirmat, sufficere si ... fideicommissum ... ex hereditate ... cogere ... patris hereditate quo facto confirmatus quod ... ex institutione ... coheres adire et hereditatem restituere ... quantum suggerionis ... vergere ... velle ... quod ... ... sufficiet hereditas. Cum ex parte sensum existentia ... tabularum confirmatione nulla requireretur quatenus ... unum ... cogendus quia ... ... requirat.

n.° 23.

... etc.

Praedicte ...

Eandem civitatis ... quod quem ad modum ... fideicommissaria ... hereditatis restitutione que ... ... necessaria ... sufficiens ... tia ... heredes ... ... fideicommissario ... quod ... fideicommissaria ... quo obligaret ... ... heredes ... ... tamen ... negare videtur.

Lulpaguaqi 38 · ad ayuy ff. de feudi con liber

Gonz.

in 24

Priori gressigultati cognit

intergretis. valde fructuarent

At laborant ut constat ex pallio casseriensis

in regest. ig sihly Gerg nº 2 ubi communiter

scribi referunt q. Bott. ex cornis in 9 3

nº 11 eod. Lenore deliberandi qui fuisset

intellectus assignat Momco doct. H. Cayne

selectione creatio § 22 nº 84 in rigore

§ ut instituta Cesaredugutl nº 6 inter

quos Ant. fab. decades 22 errore 8 nº 4 an

Antue ind. eo dig. Julianus in pubere instituit

heredes instituitur, sed ex credatur ut in lata

27 § 7 g. de Gudio s eods. tt. ad Ibm vol ex fu

liam libris eade spectes q pariter mere

fragantur verbo. Cos. libri sidua fuerint

a patre instituti Cas filio eius cuique rol

que insoliis Bartolni et reliquis dicunt et.

ayss. sefecerunt quoniam hereditatem posse

consideratam ff. agnoscenda quasi filius

impuberes fuerit et ediui Gerg. instituty

ff. ex heres fallus erita. g. intra bidu. hoc in

quos nator heredes venitur existerent fratres filius

in similibus eos. ff. trans. to. ex fori eius nec

mirandus alii saber. pig. 2 C. de sponsis

ex nomenendis darulen interpretandis dicunt

ventis de con de battus ea que memorim

allegarit tempore suppl. tenuta et responda

[illegible]

cc man nonas ... sed seu ... potius
... et sententia ... mutet
ad ... n ...

n° 29 ... Quia ... Quia ... Iulio ... nec
... ideo ... Iuri ... adit ... sui
... fidei commissi ...
... a ... quia adm...
... quasi ... super ...
... heredes ... restitutione ...
... fidei commissarii ...
... et restituere ...
... ad ... utilitate ...
... heredes ...
... restituere ... hereditate ...
... fidei commissarii ... licet ...
... ad ...
... patris ... non ...
... sui heredes ...
... ius ... heredes ...
... fidei commissarii ...
... decipitur ...
l. m. ... 45 ... fra
... fidei commissis
n° 26 ... Nec ...
... tum ... heres.

-tuto ? tis matis fetuitus patris et fili pdre
-tinant ex intitutio an vo quori adire quot
videtr requiri aditio rastitutoris et ofirma
tio p partis et filii n respondetr hoc requiri
aditio rastitutoris et ofirmationes patris et
filii n respondetr hoc requiri n ad hoc vt rus
titutio pupilaris obtitat n ad hoc vt omibus
cabetur patris et fecha habeat vt filii
ominus nempe Universale meo relictum
fidei omicario restituatr ex quo rari obtit
n glori ex d § ide julianu existetiam
tui heredis tabulas pupilares n ofirmari
psecuitr menchaca et Gutierez
N 27 ad 4 dificultate respondetr
ond l cum quari 3o § d et
si meus ff de fidei. libert sap heredem
se abstinuisse et ideo libertate fidei omissa
via que ministerium et factum iuri exige
bat ? petere n potuisse obstante iconturs
sulto fuit sententia quia licet data abs
tentio nullum factum filii heredis porrit
considerari circa pstationes fidei omisarie
libertatis domini tam liberi stiquatio atenta
filii licet reabstineat sucu heres ? maner
quo ad miro ex § l se quinde liberis fidei
omisaria servo ? edit acsi a eodem filio
herede scripto pstita fuisset quo dicitur
admitti in uccesio obliqua fideicomisiarum

Poena est qua in particularis et deliberatis dispositio est et ut afirmaretur necesaria fuit ... emendi ... ad ... Senatus consultum ... fuit ut nullo ... damno ... heres ad re et restituere.

n° 23. Filio ex ... dicta

suitatis prerogatibus ... adquirere hereditatem ... adquirendi ... ad ... libertorum et ... 83 ff de adquirend. hered. ubi ... Paulianus ... 42 § ... et illud notabile ... ex hereditate paterna ... ff de adquirend. heredit.

n° 29 Quod ... ex Paul

L. 1. ff de actio. rerum amotarum ... ex nerva et ... Sabino et ... dissenserint ... ff de origine iuris et ... in ... libris passim ... ut in L ... ff de ... et ... refert ... nos ... rubricaverit ...

Verbi et actu existimant nequiaem ea formam facere ea ratione qua tradit & unus quia societas vite quodam modo dominari ea facit ut nos et Panius d. inserunt; furtum quidem ea facere supernaturali prohibitius l. 3 in fine ff de furtis l. in. hoc ly ff de deditis n. d. ibi l. [illegible] 42 ff [illegible] sia. Unde Alciatus oraculo. Ita [illegible] l. 29 quod mutari non potest & id naturalia omnis lecture naturali id eum habilis faciat ea participem, sui bonum que si viri ostitui erunt prudentes

n° 30 Quarto ex predicta Dhincatione eodem quae proxime quo fluit quod Pauluniba fert in nostro textu ibi ut nullaque sit eadem hereditas fuisse ex quo verbis volat extante suo herede nullam inteligi hereditatem fui ste confirmat hoc in l. si post mortem [illegible] l. quensita que si vero necessario ff de legatis 2° quia vero hereditate in l. si aliena 17 ff de exhaneis ff de heredibus instituendis in l. si creditoribus 3 ff ad l. falcidiam in l. eum hereditas que a depositi quae pleudant et ex tollunt Albericus Bald. Salicetus Ialjason hic n° 20 de cons. n° 20 ff de ad quirenda hereditate Plures relati adan tonio Gomezio 1° tomo variarum c. 9 n° 2 ubi ex eadem saone Inmola d unge [illegible]

Hic infert ad statuta sequentia de gradibus et successionibus ... hereditatibus et ... in hereditate patris ... quia ... nota hereditatem ... dominium bonorum ...

... Si stant ... notabiles ...

Ut nulla videatur hereditas et cetera ... hereditatem dari ... dem illud videtur ... Item ... armata l. hereditas ... quia ... intestatorum ... hereditatibus que ...

N° 32 Hec dificultas ... et animadvertendum ... Paulus ... intelligendum de hereditate ... persona ... quia ... hereditas ... hereditas ... dominio ... hereditate ...

mutuocre 23 ff de f. dei iuroni[?] ? sentuses
al enus institutionem de heredibus instituendis
qui nemini institutionem destiquulatis verbo libere
reg. quia concedit cum ita aceepta hereditatem
acciperiti so potius universitate patrimoniique
morte alicuius ad alium venit n. tunc here
ditas etiam cuius datr. d l. quia ff pr. l. de gentes
tatore, inque acepta hereditas dicti meri et qfe
redes iur. l. fratri ff de getitio hereditatis ibidi
c[?] ff de familie erciscunde ex quibus frequente siggeda
illa morte tus ut nulla vacat et ceteram in qq
ostendet. Dicilas enuis hered. b. ficta hereditatem
item in l. lani descritame quia ut vere quas hereditarias sicut
N.o 33
Dicunto ex eode principio
fluit quod saepius multus dic
unt enuis 14 ff de suis et legitimis heredibus
suos statim heredes existere neque aditione indigere
quae sententia licet communiter soleat exponi ex
traditis a nobis s. n.o 28. aliter est exponenda et con
trastanda a nobis et cum illum t. s. l. exemplos quia
sic se habet Gabiel tit.o 13 ad l. julia et papia
item lex papia introducta, fuit ut dies legatorum
a morte testatoris ut antea aperte tabulis ideo
aperture tabulorum cederet et nisi teri legata rei
decesisset legato fisco vendicaretur ut justinianus
docet in l. unica § cui igitur cod de caducis tollendis
quod etiam in hereditatibus obtinebat d. § idem igitur
dicit iustinianus ulpianus in fragmentis tit.o 17
cuius quae in exempla extant in l. 3 § finali
l. qui et vendo 42 ff de heredibus instituendis
l. 3 § finali ff de iuris et facti ignorantia
l. omnibus et l. unica tit.o 34 ff de uxoribus 22 de

monstratio Balduinus ...
... heber ...
... deliberandi ...
... ... immediate ...
...

nº 34 Itemque ab hac regula ... heredes ex ...

... ... deliberandi ...
... heredes ...
... deliberandi ratio cuius
... aditione hereditatis an
... cum
... necessaria ... sit quia ... heredes
...
... ... dominii ut ...
... heredes ...
... et liberis ...
... his qui ... ...
... libertate ...
... et liberi et necessarii heredes ...
... morte ...
... Bald. ... ...
... ...
... ...
... deliberandi et ...
...

nº 35 Sexto ex eodem principio
... ad id ... Bartolus
in ... nº 2º docet ... heredi-

posse Vracagese ltt° cum herede in non bonis
patris relicta et adeo sine ltt° potestam
qd tenerit Henricu Bo[illegible]
Dixecus in eo in l e ff de herede Barth
seuch Plares relati a Sarmiento lib 7 c 1
Pinelo in rubrica cod de bonis maternis p 2
parte n° 37 Gometio i tomo variarum
cap 9 n° 18 in quorum via affirmativa poterit
ex nostro tex argumentum in [illegible] in filii
vero paternarum donnationum [illegible] Vraca
[illegible] herede dari [illegible] ex regula le
gis sequir l § sane ff de vulg et pupil
mat [illegible] Inichil 2° cod de herede [illegible]
alteres nichil de herede vulg [illegible] posse suis
heredibus ex his textibus magis [illegible]
firmant.

36

Sed hec Bartoli
doctrina michi

semper suspecta visa e ex sequentibus i qd ea
admissa deterioris conditionis esset filii quam
ex traneus quod admittendum n e arg l fa
sa 33 § i ff de conditionibus et demonstrationibus
l 3 § si emancipatus ubi ita resolvit ff de
[illegible] Fabulas. 2° filio suo heredi [illegible]
cognitione [illegible] herede probat L [illegible] filium
posse Vracagere [illegible] herede [illegible]
donatum. [illegible]
[illegible]
[illegible]
[illegible]

[illegible]

[illegible] [illegible] [illegible] mag [illegible]

[illegible] in con[illegible] [illegible] [illegible] etc.
[illegible] [illegible] probrande [illegible] maxi con
tracta [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ex numinis [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ex [illegible] [illegible] [illegible] [illegible]
aute [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] probandae [illegible]

n.° 37.

[illegible] fundamenta
[illegible] [illegible] [illegible]

[illegible] sumentia [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] gubernare dominus [illegible]
continuerint [illegible] [illegible] quae [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] conscientia [illegible] [illegible]
[illegible] qua [illegible] [illegible] persona [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] declaravit [illegible] [illegible] quae defuntus [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] et dominium eius ad [illegible]

n.° 38.

[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] necessari[illegible]
[illegible] 33. [illegible]
[illegible] [illegible] [illegible]
continuationem [illegible] [illegible]
[illegible]. [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] et [illegible]
[illegible] [illegible] [illegible]
[illegible] in continua
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
continuaret [illegible]
[illegible] [illegible] [illegible]
sentaret [illegible] [illegible]
[illegible] [illegible] [illegible]
sentat. [illegible] [illegible]

[illegible] cationes ab herede, [illegible] sed [illegible]
dictione [illegible] ut ex his sententiis [illegible]
dibus [illegible] [illegible] ab herede [illegible]
[illegible] ex substitut. [illegible]
[illegible] dominium [illegible] paternorum [illegible]
[illegible] de [illegible] [illegible] de [illegible]
[illegible] aliquos ex substitutione [illegible]
[illegible] [illegible] ex quibus [illegible]
[illegible] neque [illegible] translatio [illegible]
[illegible] natura et [illegible]
[illegible] herede [illegible] quisque heredibus [illegible]
[illegible] [illegible] ex
[illegible] herede [illegible]
[illegible] facto [illegible] fideicommisso
[illegible] [illegible]
[illegible] interpretatio [illegible] [illegible]
[illegible] unde [illegible] herede ex his
[illegible] [illegible]
[illegible] [illegible] sequuntur [illegible]
[illegible] [illegible] maternis [illegible]
[illegible] [illegible] descendentibus [illegible]
[illegible] Antonius [illegible]
[illegible] de [illegible]

n.° 33

[illegible] interpretatio
[illegible]

[illegible] ex [illegible]
[illegible] ex [illegible] herede [illegible]
[illegible] argumenta [illegible]
[illegible] ex substitutione [illegible]

[illegible]

[illegible] de [illegible] aarū [illegible] d[illegible] uiars
ex. ogcundū sl. ardicanone procedēdē
nec contidat [illegible] verso [illegible] alia
[illegible] in [illegible]tate quo pctans [illegible]
[illegible] [illegible] in casu.
ea [illegible] de [illegible] tamē [illegible] cu [illegible]
[illegible] [illegible] [illegible] [illegible]
ex [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] consideranus ca[illegible] [illegible]
[illegible] aglunet.

n.º 40. Verum demū constat.
[illegible] [illegible]

[illegible] transfla[illegible] [illegible] [illegible] patermoni
[illegible] [illegible] [illegible] [illegible] ut remediu[illegible]
[illegible] [illegible] n[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ut [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] depu[illegible]
[illegible] [illegible] confirmatio [illegible] [illegible] quamla
[illegible] [illegible] transformandu [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] quo casu. [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] amplius [illegible] [illegible]
[illegible] posset [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] dominij confirmationis
[illegible] [illegible] [illegible] n posse [illegible] [illegible] ?

x que Poset conjecture ... inter
[illegible] sententias ... latius
ampliasse ... commentariorum
... forcatulus ... Cujacius
... 23 ... 27 ...
... memb ...
... commentariorum cap. 24
n. 41. ... extraordinarie
...

Respondetur inter[illegible] ...
...
... heredi ... sententia ...
... sufficere ad usucapionem ...
... ex sententia ...
... ff de vulgari ...
... hereditate ... de usucapionibus ... usucapionem
...
...
... de usucapionibus et
... herede continuetur dominium
...
...
... quae sequuntur et laudant Bartolus ...
... Sarmiento ...
... damnata sententia ...
... dimodo ...

Possessione eterni gravis ... in ... ...
ad concordiam ... Baldus ... ...
... ...
... ... intellectuali ...
inter ... ... que ... ...
... ... in ... ...

n. 42 . Ratio ... variante
... ...

... actualis ... plurimis ... ...
... adquirenda possessione ... de
... ...
... ... Belonus ... ...
... ... et alii plurimi
relati ... ad ... ...
mentariorum cap. 20 intellectualis ... ...
... incorporalibus ... ...
... ...
... ...
ministerio ... ... defuncto fuerunt quasi
possessio ... et dominium ... ... est ...
principaliter ... in ... ...
... ... verbo ... ...
... ... ex qua ...
... doctrina plura utilia ad ... ...
patronatus ... ...
consilio 102 ... ... patronatus
... 93. ... ...
cap. 16 ... ...

Ex sententia tradita interpretatur
ad text. in d. l. in aed. usucapio in d. ex tit.
pro herede et d. c. cum heredes possideat quasi
admodum emptor d. alios tit. pro herede usu-
Capit.

n. 43.

Septimo ex eodem prin-
cipio pendet ratio leg.

si filius ... cum similibus Bald. ubi constitutus
ex test. in quo filius in potestate ... e
mittitur hoc est nec institutus nec exheredatus
si cadit instituta, de here de que ab intestato
nullius et ab initio ... ut quasi ab
initio Bald. dicto ut quamvis filius decedat vivo
patre in ... maxime valeat ... interpretor.

+.

hic videbis ... in ...
... hoc ...
... videbis ... de
declaratione

text. in d. l. si filius ibi et vivo patre decedat in ex
primat casu, de ... in mortuo patre
filius preteritus decedat idem multo maxime
Defendo et ... ... in
... ... 30 Bald. l. 2 ... ex
... ff. de iniusto rupto. l. ... final.
... nulle extabunt ... magis ...
... Cod. de lib. prete. ... ...
Instrumentis l. 22 ... ... titulus
l. 10 tit. 7. l. 1 tit. 8 Par. 6 cuius rei ratio ...
... Solet ... quia pater ...
mendo filium dupliciter peccat et ... ...
... ... et nature ... ratio ff. ...
... damnatoriis ... ... unde ... ...

... unicus nullus requireretur actus neque alia ... contractus ... et ... quae ... personis ... conditione ... quae ... unde ... sub conditione ... authoritate ... conditio ... in ...

ff. de verborum obligationibus ... ff. de conditionibus ... conditio ... conditionibus ... ff. de conditionibus et demonstrationibus ... Consilio ... ff. de verborum obligationibus ... ff. de conditione ... Menochius ... creationem ... § 9 n° 40, 56 et 58. Antonius ...

Cornelius in commentariis cap. 43. ubi
est... in notatis litera C.

44 Nimo ex iodis pram
... dimanat quod ...
Juris. Regula ... ut ...
... ...
... hereditatis cod. de ca
... lex ... 7. cod. de jure de
liberandi lex 2 tit. 6 Part. 6 ...
... possessione ... lex 3. § ...
... possessionibus. lex emancipata ...
... et in jure et ...
... 8 § ... lex ...
... lex qui habebat 47 ff. de vulga
... et ... 9 ff. de ...
... ...
... ... ex Jasone. Unde
... emancipata ... in ... ventre
... 8 ff. ... hereditate et ...
paradoxorum cap. 5 Gomesio 1 tomo cap. 9 ...
inter quas ... hereditas ante
quam adeatur in bonis ... lex ...
63 ... ff. ...
... ex eo ...
... ...
... lex ... 8 cod.

ff Coluber & coeptum

Cum iure de liberandi ? neque venerarum eo
aliquis ex quo neque virgo nunquam magis
Bene ? abeundi · sed de eo nomine be
debitarum que de hered. ex de illis augeatur be
debita ut falsi de loco re et quatenus l.
de nepotes quos dixi trapplatione ex sola spe
sit viri dixi Turre · ea que & tit. de erroribus · 6 ff
sed Cum falsis scripta · ex · eius ad aut · 6 ff
que in fraudem creditorum

45 alii ex eo ratione dimanare
affirmarunt quod actio heredita
-tis in voluntatis oritur & ultimo institutionum
de heredum qualitate ac voluntas morte finitur L 4
ff locati et ideo ad heredem non transit Peralta
in l. siquis verbum quotiens duos nº 5 de legatis 2º
late tiraquel. de retractu lignagii § 1 § 26 nº 74
ad haec, talis enim sunt Autorum melius est decerna
bonum voluntatis transire ad heredes l. illud eg de
obtinere legata & obtentis institutionum de legatis neque
enim veretur l. l. 4 quae loquitur in casu in quo voluptas
ad aliquius quaerationis actus non valeat quod quis volue
rit heredem cum contrario decernat ulle merito extin
guitur actus.

46 Verior quod videtur ratio quae docet totum hoc
sicut ad alia plura in hac ultimarum
voluntatum materia pendere ex nostra voluntate
testantis qui heredis institutionem voluit sibi ipsi
vere ultimae herede successore utcumque gravioris negotii.

quale ipse obtinuit quod est inconveniens absurdum.
Accedit atque res ... l. ... ff. de fide. creditorem
ad testatoris beneficium ... ad alium transire
non debet ... succedere ignoret atque
que non velut unde non ... heredem non adire
credibile testatorem melius ... proximiori ...
ei succedere quam heredis heres qui ...
ignoto quem nato ... esset ... quam non testato-
ris ... legatarij ... et ne ...
tio relinquendis ... legatarij ... non
sit ex ... heres a legatario
... eius hereditatem ... a
marito ... legatum legatarius transmittit
d. l. unica § ... et in ... C. de
Caducis tollendis ... Iason ... omnis
in l. 3 de legatis 1° Alciatus 4 paradoxorum c. 5.
Gomezius l. ... n° 6.

97 Cetera ex praedictis juris regula
habet superior ... hereditas
... manet hereditas non adita non transmittitur ex-
tra ... mulier ex persona ea locum non habet in
filio suo herede decedente antequam ... est
... ... hereditatem. filii enim ex potestia quam
... nostre appellant ... heredes patrimonium
successionem transmittit. l. ... § ... C. de
... ff. de acquirenda hered. lex militari 52 §
finali cum duabus legibus sequentibus ff. de milita-
ri testamento l. ... et legitimis li-
beris l. 8 C. de servi herede liberandi l. 2 ff. 6.

Bart. in actio Quod ma? ... qui ... qui cum
... ad ... ab ... parti heres
... minus ... domi
... quodam modo ... ab ... aueri
... ... actio ... mittere ...
... obstat ... Bartholus ind L
Vinini n° 24 Quam ... de arte ...
... Baldus Dend. in ... ...
... n° 155 ... regula
... Geometria ... tome ... 999 ... 18
... ... quo descendit ... dubij
resolutio ... in ... ...
Bart. ind ... Vinine n° 24 ... ...
in emancipato filio ... ut ...
... hereditatis paterne ... nullo
modo transmittere ... licet stante ...
... de legitimis heredibus ...
... ad similitudinem ...
... tamen ... quod succedit ...
testato ... quod ad modum filius ...
tamen ... equalitatis ...
... habent adire hereditatem ... trans
mittimus ... ex potentia ... illustrat
... in C. ... 208
... hoc ... Alciatus ind L. ... n° 36.
... Jason ... ...
... ...

n° 48 ... ex ...
... filius ...
... constitutionem
... qualitate ex predicta ... potentia

in tramsmittere hereditatem. neq. contra

nec probat lex si marit. C. de Cons.

et legitimis liberis quemadmodum filius matri

succedere. sine aditione consta ut lex illa

ri probat. Sed filius post senatus consultum

orphitianum matris succedere ...

cum tamen ante illud solum pretorium venebatur

admitteretur ... senatus consulta

vers sunt ... senatus consultum

... quae a iure

... inter duo ... heri ... ad

... iuris pretorii ...

... quo ... vel ...

... ad modum ...

... ex ...

... Cod. ... si maritus ...

... hereditate matris ...

... per senatus consultum

orphitianum cum ante ... pretorio fuit

admitteretur ... sup. ...

C. alterum E.

n. 179. Sexto ... ex eodem ...

... colligitur ...

... qui ...

... de ... hereditatem

... emancipata ...

... Cod. ... consi-

lio ... n. 7. ex ... filius ...

mittentis ex potestate ... hereditatem tamquam

... et tamquam ... tamquam ... transmittere

et enim

[illegible] [illegible] [illegible]

vt enim dictum hereditate transmitti tanquam ius quesitum cum adiri nequiret fictitie [illegible] ratione quia animadversa lex [illegible] quod sequitur filius [illegible] paulus [illegible] dixit filius [illegible] quia [illegible] heredem suum [illegible] patri heredes [illegible] necessarius patri [illegible] de [illegible] adire hereditatem [illegible] [illegible] [illegible] effectus [illegible] [illegible] [illegible] [illegible] adi erat hereditatem [illegible] [illegible] quia de patris hereditate [illegible] transit [illegible] adiri [illegible] suos [illegible] [illegible] abstinendi argumento [illegible] videamus [illegible] [illegible] [illegible] [illegible] filius transmittit [illegible] hereditatem tanquam adeundam [illegible] [illegible] [illegible] hereditatem [illegible] [illegible] [illegible] [illegible] codem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quibus [illegible] [illegible] quaerenda [illegible] quaerenda hereditate [illegible] [illegible] [illegible] [illegible] fine

n. 58 Unde primo ex eodem [illegible] [illegible] [illegible] [illegible] [illegible] hereditatis transmissionem [illegible] [illegible] [illegible] natura [illegible]

filium q[uod] sit suorum [et] infans nam cum non
sive adquisitio fiat aa[illegible] remorari [illegible]
[illegible] [illegible] ff. de suis [et] legit.
[illegible] institutio [illegible] de hereditate [illegible]
[illegible] [illegible] inde [illegible] 8
[illegible] [illegible] observatur [illegible] filius [illegible] institutus
habeatur [illegible] filius [illegible] [illegible] [illegible]
[illegible] [illegible] filio non heredi
hereditas quaeratur sine aditione institutus
potest ad matrem qui in casu in quo est
hereditatis ex institutione [illegible]
Bartolus in l. 2. [illegible] communiter
C. de [illegible] vulgari [illegible]
[illegible] en sive [illegible] [illegible]
praeteritus [illegible] Baldus in cap. [illegible]
columna [illegible] extraderes [illegible]
in l. filio praeterito in § ff. de iniusto
rupto [illegible] Albericus columna [illegible]
[illegible] Cornelius [illegible].

§ 5 — Quod ex primo [illegible]
[illegible] exponitur

Cast. [illegible] in l. [illegible] extraneus [illegible]
ff. de adquirenda hereditate [illegible]
extraneus [illegible] quod si extraneus heres
aliquid ex hereditate [illegible]
videtur per hoc hereditatem adiisse nam
ad [illegible] contrariam voluntatem declarat
cuius contrarium [illegible] heredem [illegible]
[illegible] respondetur videtur in l. [illegible]

§ Praetor aut quod eodem quod Cedat quaerenda
hereditate. Concedendum erat enim Iudicibus
modus explanandi hereditatem in bonorum
se immiscere sicut neque extraneus
adire [illegible] [illegible] [illegible]
[illegible] [illegible] ut lex [illegible] ex[illegible]
aliquando constat [illegible] matrem. [illegible]
[illegible] in quibus se immiscens quis [illegible]
sit [illegible] [illegible] ad [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] bonorum implicatus remanet.
argumento textus in l. postulante [illegible]
[illegible] [illegible] [illegible] ad [illegible]
sequuntur [illegible] et Jason. n.o 22 [illegible]
[illegible] extraneus [illegible] Baldus
[illegible] immediata. [illegible]
[illegible] § 7 [illegible] Gutierrez [illegible]
[illegible] [illegible] Antonius [illegible]
Cornelius [illegible] commentarius cap. 3. 24,
25 et lib. 7 cap. 2 - 5 - 8 - 20 - 22
- 22 ubi [illegible] Baldus in notatis plures
refert quae sane illustrant et prosequuntur
n.o - 52
Velut sententia [illegible]
superiori [illegible]
[illegible] et sup. [illegible] ex [illegible]
[illegible] in [illegible] praemissis fundamentis et [illegible]
ea Paulus [illegible] in filius [illegible] pater [illegible] do.
[illegible] mortuo patre [illegible] adversari
[illegible] [illegible] [illegible] [illegible]

illa ostensione filius heredis instituti
et ubi se postumo pro nomine filio q. institutum
nepotes et ait [illegible] interim [illegible] filius
postumo in nato nepote [illegible] qua dos
[illegible] heredes [illegible] qui [illegible]
c. difficultas q. [illegible] filius in ea institutus
pro nato [illegible] in eius potestate habe
bat [illegible] et [illegible] heres debuit ex
sistere [illegible] pater namque dominus
debuit continuare [illegible] et suam
familiam nec nepos potuit [illegible]
tere [illegible] [illegible] filius
[illegible] [illegible] institu
tionem de heredis [illegible] institu
tionis de hereditatibus [illegible]

C. — 93 — Quare cum autem
[illegible] difficultati
satisfacere [illegible] ut constat ex quinta
[illegible] filius [illegible]
[illegible] inter [illegible] relatis
[illegible] ad [illegible] interquas
[illegible] [illegible]
institutis [illegible] fuisse [illegible] filius patris
sui heredes existere [illegible] nepotes
tam heredes qua [illegible] heredes huius sta
Bartolus [illegible] filius [illegible]
Baldus [illegible] et alii [illegible] Bartoli

sententia dicta in C. tenuimus Cons. plurim.
Paulo castrensi cumano Jasone a Ugato et
Aymicento dni. Cesario in repetitione l. adeo
in § Papinianus § 4 aug. ff de inofficioso testo.
et petro gregorio q2 Xantai matiss cap. 13 Rabl ode
... prematricorum decade 1 2 cap. 3 ... pro multis
2 variarum cap. in 2 gl quam omnes apertis funda
mentis suis hanc doctrinam convincunt.

n. 5 4. Respons. q. a formam
Cons. Ant. qd cum non
ore pretenderet Cessarit testator in potuit sanyto
dicto Cessat hereditas ex testo qd postumi
natiuitate rumpi. sic aliter l. ii vectore § 3 ff de
ad qui rectio hereditate ratio ex parte vero tunc
est ex quo nasciturus integra fuerat concepiss na
scendi ... l. antiquis ff si pars hereditatis
petat. et adeo nepos tamen nasciturus fuerat ledan
vir aliis deficiente hereditas in debere ex parte
... scripti omnia adhoc ut posset adire
hereditatem ... debit ex quacausa adeum
pertineat. l. ... adque ... l. pater q3 compo
sito ff de ad qui recta hereditate et dee vero
per ... creditor ... ex qua causa
hereditas deferenda sit ...
... ff deunfuncto ... gestu
mi quoque ... hereditate que abintestato
... abintestato ... nostro non posthumi ...
...tatis ... ex ... cod. & per ...

Berardus, assistentibus quemadmodum aequum erat in fine suo ... una que de modo inspir... mundo caique exquiaberit ... referentes compte ... admodum intestato ... recordatur. ... quod ... impius ... angelorum ... sancti ... conventio ... solemniter ... de contra talem ... ut eius filius inspirit ... de ... possessionibus ... hereditate ... ... et concessit ... ... quod ... impotestate ... ... ut ... ... eius ... ... cum ... ... et ... hereditatis ... quod ... abierit.

nº 95 ... ... contra ... singulo ... filius ... ... heredem ... ... intelligitur manifeste ... ... filius ... ... in potestate ... ... impotestate ... ... causa ... ... heredibus ... potestate ... ... hereditate ... ...

Ex eius effectu impeditur primum institutionum de hereditatibus quae ab intestato deferuntur. Tertium vnde [illegible] [illegible] liberi [illegible] contra [illegible] et [illegible] in po[illegible] nati filio [illegible] hereditas ut [illegible] Christoforum de castello [illegible] Germanus Paulus Castren[sis], et [illegible] [illegible] probaverunt

[illegible] 56

Ex qua verissima [illegible] [illegible] interpretatione [illegible]

Xiliter Cappus [illegible] [illegible] ad africanum [illegible] filius et 3 observationum cap. 2 [illegible] [illegible] in illa parte postumus fuisse natus [illegible] [illegible] adquerita nepote solus extitisse [illegible] patri a [illegible] simul [illegible] postumo [illegible] [illegible] filius institutionibus de [illegible] [illegible] et [illegible] illa postumo [illegible] nato ex [illegible] pendere [illegible] [illegible] filius defuisse invenitur [illegible] nascitur postumus [illegible] negare [illegible] filii postumus natus fuisse et [illegible] ad [illegible] [illegible] intestati [illegible] [illegible] [illegible] communiter [illegible] [illegible] interpretatio [illegible] [illegible] [illegible] [illegible] [illegible] consultus mutat [illegible] filius [illegible] heres patri ab intestato [illegible] [illegible] [illegible] filius solus fuit heres [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pendente postumi natali [illegible] [illegible] tempore mortis [illegible] [illegible] [illegible]

exeo[illegible] nepotibus [illegible] ad 3 rta capitulo [illegible]
filius [illegible] suus heres patri [illegible] nullus relinquit[illegible]
[illegible] nepotibus [illegible] sententia africanus [illegible]
firmat ex exemplo filii [illegible] sub conditione
potestate [illegible] que in ultimo vite spiritu [illegible]
pleri [illegible] [illegible] [illegible] instituens filius [illegible]
[illegible] moritur suus heres sit patri ab intestato
vel apud Julianum [illegible] [illegible] [illegible] modo [illegible]
heredes instituendus [illegible] [illegible] [illegible]
[illegible] [illegible] de conditione [illegible] institutionis

57 Convincitur preterea

[illegible] nepotibus in specie [illegible] carentia [illegible] ex [illegible] filius
[illegible] suus heres ab eodem patre qui
[illegible] carratione [illegible] filius moritur et
[illegible] ultimo vite spiritu efficitur suus heres ab eo
patre [illegible] suus heres [illegible] non potest [illegible]
[illegible] longe [illegible] nepotes [illegible]
suus heres [illegible] patrui [illegible] postea ab eo. [illegible] puncto ar
gumento [illegible] ordine [illegible] consilius
[illegible] [illegible] verbis nepotes [illegible] patri
qui ab eo suus heres fore [illegible] manifesta
[illegible] nepos [illegible] filius fuerit mortuus
pendente postremi nativitate [illegible] nepos
[illegible] heres [illegible] [illegible] [illegible] [illegible] pater
[illegible] obstaret. ab eo [illegible] heres [illegible] non potuit propter
pendente postremi nativitate [illegible] impedi
[illegible] hereditatis filio [illegible] nepoti quo [illegible]
nepote fuerit ex [illegible] [illegible] ex spectare ut
[illegible] [illegible] nepos efficitur suus heres ab eo
exqq [illegible] et [illegible] [illegible] [illegible] filius

Heres ipsius illustrata et declaratare manet

n° 63

Articulus ad textum
ea que de continuatione.

Dominii in successione patris huius que i[n]
Quaesimus n'ebe scrupulus incidet sume d[e]
tyi. hs. in lg. f. patre ff. ad silanianum
ubi pater a hostibus captus sit quod heredis
habenda est ... filio ... ex ... vl.
probamus docet quod etiam post mortem patris probat
si ante quam ... exstitat ... fuerit
ex qua aperte constat incipiendi continuatio
Dominii que inter patrem et filium ... in
hac nostra lege admittit.

maximo et aliis impraesenti constat. Inter alias
formulas de dolo malo agendo ab eo confectas
ut emendarent leg. aquiliae de damno per iniuria
dato ab eo de tribunis et latis ut auctor l.

Antonius augustinus de legatis cap. de Ignatio ita
et formula alia ad tollendas contentiones [illegible]
ne quamvis [illegible] sub aquiliana stipulatione aquilia-
no [illegible] celebrari in lege aquiliana 4 [illegible]
quentis ff. de transactionibus in lege et iure 28.

Ff. De acceptilatione, integrat per acceptilationem
[illegible] quodcunque obligatio. Sane etiam
valde a nostris laudata, per quam nepotes quarentes
[illegible] [illegible] heredes [illegible] possint [illegible]
[illegible] ex [illegible] cuius materia subtilitate [illegible]
[illegible] plena ad nostram interpretationem cum acumine
[illegible] [illegible] quid [illegible] decompone[illegible]
formet

nº 2

inde Ceduxeris imperiis qui
institutionis obligati,

que ex Cedentis [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] fasit [illegible] sua [illegible]
[illegible] [illegible] ex maleficiis [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] ff. [illegible]
[illegible] [illegible] lex 22 et 23 [illegible]
[illegible] ex [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
preter [illegible] [illegible] ~~filius~~ [illegible] [illegible]
[illegible] Bordin[illegible] Marius Salomonius, fortunius
[illegible] [illegible] [illegible] de Rey [illegible]
[illegible] [illegible] [illegible] Goveanus franciscus
Hotomanus franciscus Sarmientus [illegible]
[illegible] [illegible] [illegible] [illegible] fili-
[illegible] [illegible] [illegible] [illegible] commentarius

Ultima pars. Plura qui ad eius illustrationem
dixerunt [illegible] ut alciatus
3° [illegible] cap. 2 [illegible]
[illegible] cap. 15 [illegible] de ambuarijs [illegible]
[illegible] cap. 23. [illegible]
[illegible] institutionum [illegible]
in regia manipal. [illegible] Cirilo [illegible]
nemus et disputationum cap. 38. eduardo [illegible]
[illegible] in cap. Reinuntius
[illegible] Cornelius [illegible] commentariorum
cap. i. Ant. fab. [illegible] conjecturarum cap. [illegible]
sequentibus, [illegible] principio [illegible]
[illegible] preceptor noster Antonius [illegible]
[illegible] ad [illegible] quo [illegible]
[illegible] Juris [illegible] Juris [illegible]
[illegible] Consilij [illegible] Juris [illegible]
[illegible] Redere [illegible]
[illegible]

Ed ut falsitatis
[illegible] possimus
memoria [illegible]
[illegible] postumus [illegible]
[illegible] ut constat [illegible]
[illegible] si postumos
[illegible] postumorum [illegible] de iniusto [illegible] postu
morum institutione de exheredatione [illegible]
[illegible] aglo in Rubrica [illegible]

dellarum et posthumorum ... Rubricando ... Thraquell. 7 ...
verbo superveniente ... Cod. ... com
... Connationibus ... in ... nomine filii
... columna ... Sans ... fiat
Iohanno ... angelo ...
sup. particula ... feminas
... filio qui post mortem patris natus est ...
... patre natus ... apud Romanos ...
... fuisse ab antiquis ... accepta testante
Gerald de ... Plinius lib 7 cap 34 ...
... lib 5 ... Historie Cicero 2o de legibus et Virgilius
lib 5 ... qui ... mortuo natus fuerit postu
... Robertus ...
2o animad... cap ... 2o ... Duarenus ad
hunc ... Cujacius ... commentariorum
... observationum ... 4o ...
lib 6 commentariorum cap 14 ...
... meminisse ... varias a nobis posthumorum
... ex ... in Rubrica
Cod de posthumis heredibus instituendis ex Jasone in
rubrica ... praxis ...
... vicenalli ... mittas faciunus ...
... tantum reducimus. Quibus enim posthumis ...
quidem dicimus ... suis ...
suis Medicis quibus ... tempore ...
nascantur ... esset ...
... successionis locum obtineret ... posthu
mi ... institutionis ... de hereditatis ... in lib

et hic potest dubitari de aliquo postumo nascituro ex proprio corpore quidam ex corpore alieno christo phorus porcius in principio institutionum de ponorum poss. n° 2° maximus hic n° 220 nos qui sumus ex proprio corpore ... filius nasciturus ex uxore de qua in ... placet ... nasciturus ex alieno corpore ... nepos ex filio defuncto ... ex nuru nasciturus de ... in ... ff de testamentaria tutela

n° 5 Alienus posthumus ingenuus est duplex quidam alienus in patre quidam extraneus § posthumo institutionum ... extraneo ... ff de ventre inspiciendo ... Maximus ubi proximus alienus illud dicitur qui ... tempore natus ... inter suos heredes testatoris ... d § posthumo institutionum ... ut post ... thoma ... et aliqua ... uno ... legantur ... theophilo ... Cujatio Othomano ... Fauriolius ... et ... Velea ... pag 3 ... partem ... cap 2° et ... particula 12 n° 5 Maximus ... inter suos nascitur ... heredi testatori ... potest ... Salomonius hic n° 2° ... sententia ... liberis ... mandatos inter suos ... n° ... heredes ... sanguine ... n. ... ea ... significante ... 72 § ... delegati ... Othomano ... qui ... ex emancipato ... n. filii emancipati ... heredes ... n ... filii § minus institutionum

De heredibus qui sunt ab intestato et sic ex filio emancipato nepos nascitur intestatus. et quidem heredes sed descendentes ex transversali qui appellatur ad successionem ab intestato vocantur. inter extraneos heredes
convenire impositione videndo quod ita alienus esse
utriusque posset ille sui. Quod prior expositio
maxime probanda est, cum lex ipsa patet, et omnes ali
ennos posthumos comprehendat. pro sequente ex
mamo salomonio filiorum masionis. n° 115 albert
atque et alius spanogius sui, nos corpus hardi in
prelud. Brunus ff. cap. 1 n° 27. Conellus de tob.
commentariorum cap 11 Severa. &c. Ant. fab.
post eius coniecturarum cap 1. ex quibus fordogenius de
mutationibus forensium to 3. erdetate 16. § 1. 2.
n° 6 —
Ne quod huic responsio obstat ratione. obstat lex sed de
liquet nullo eo in iure si bellis, posquam sui in re per iuris
instituendorum cum sui de iure non possit in consequentiam
quo sunt heredes dynamus ne sui in integrum
notabilium sui heres desunt quasi sui verus heres
qui ad damnari non potest et qui in utero est cum pro
rerum natura inspecta nisi sui dicatur qui in potestate
est. lex cornelia 12 inprimis ff. de ettis et quod
in utero est in potestate non sit lex. fer. ff. de
collatione bonorum, maxime que condere postumi sui
mentio non propius in iure fiat. sed in quibusdam
§ finalis ff. de heredibus quibus sui et de postumis
heredibus instituendis lege si in difficultate colligitur
ex sua in Diano in de academici. cum quibus postumi
~~quibus~~
antonius

quanto ad tam heredis ll. neque obstat. Postu-
mus dicimus esse an qui legitimo matrimonio pro-
creati et vere in dicto statu postumus. Sed potentissime
appellatur ut notatur ff de ventre inspiciendo in-
tendo et ff si mulier ventris nomine. probat
text. in l. ventre 83. ff de adquirenda here-
ditate sed ratione quia nati l. Gallus ff.
principatus. Cod. ad treb. de llanus lib. postumo nato
ad l. Cede 30. tal. ad glossam postumus dixit sui heres
cum iam in lucem editus et ad interpretationem
diversis, quilibet postumus quoque. obscurantes pereunt
in l. si curatorem l. ad sectionem. Verbo sine cura
theorem n.° 76. cod. l. Cede in integrum restitutione
quia heres sui n.° 29 de heredum qualitate
Pirreus annuatim lib. cod. l. Ce bonis maternis
2 parte n.° 87. Quarenus et Doneclus lib. neque
transpositum obstat. tale postumus in fine in potes-
tate non ex condicione et dum matrimonio l. omnia
Thura fo. consilio inter nuptias nascendi moriens.
parti l. antiqua. ff si pars hered. petatur
et post postea natus in proximi natus tempore
mortis testatoris l. qui in utero ff de statu
hominum. Sed intelligendus 253. ff de acquirendo re-
lat. quod postumus cod. l. Ce postumis heredibus
instituendis maximus lib. n.° 253. tal. per
cap 2
no.
n.° 7. Queritur in tali specie de postumos
dicitur. Si filium postea erat.
quia sui instituere poterat. et debebat in preteritionem

K

necgandu ... ratumarer ... intercipiera
... instrumento ... ex ... confessor ...
... possum ... Dei ... cardinal
... facultatis ... ex ...
... potestate ...
...
...
... sequenti ...
...

Profeder ... confessionis ...

Cessit propter aliqua causa temporis urgente ... et propter ...
...
... generaliter ... ettiam sequi ...
... doctrina ... causa de ...
... ordinare ...
... et ...
...
ex ...
Marii 25 ... anno 1630

Cessio pro ... parte

...
...
...
...

Cas constitutiv ... valeat quam exaggerentur
dispositionem alienam institutionis ... ut latius videtur
ut constat.

Quarto quia sacerdote ex veri
Colliget quod si contraria
vera fuisset ... formula sua nec lex de
... quod admittendum in ... fuit ...
... ille casus in ... quod nullo ... ratio
... Communi expositione que ... legi ... quod
... quia ... secundum ...
... Angelus in ... mola ...
... Alexander et ... Amandus ... Salomonius
Jason ... aretinus ...
quem ... grandaula ... gobeano ... bolonesio
27. Cuademus ... disputationum cap. 38.
petrus gregorius ... 42 ... cap. 3 ...
Obreles ... in posthuma ad hanc legem ... Paxtina ...
et 6. Commentariorum cap ... de ...
tatio calderina ... cap ... fagnum
... contro versiarum cap. 41 ... Comainus ...
Commentario ... cap. 3. ... hechaca ... 2. ...
... creatione § ... costa ... pos-
thumus ... institutionum de legatis ... antonius
faber ... coniecturarum ... cap. 2 ... omnes
alienam postumi institutionis ... probant ...
fuerint ...

Sed quia ... rationes
quae evidentes ... fuerunt ...
... ex cogitata ... causerensi ... 2 ...

Romanus ubi .. nomine .. advertunt.
.. illas huius existimat ..
.. in suis .. et consequenter
.. excludebat .. inde dema
.. arbitratus .. institutum .. in ..
.. testatoris qui eos in
.. legitime .. Romanus in
.. posterorum habe
.. ratio .. Sallomoniorum ..
.. institutus
.. Romanorum ambiguitatis ..
.. familiis
.. heredes .. galliaula ..
.. familiis .. rationis bane ra
tione careret existimatis.

Sed rationes hanc
.. sacra ..

Hic .. fortunulus .. Maximus ..
.. magis .. flagrat
Postumus ob incertitudinem .. ..
.. considerabant .. antiqui .. ..
hereditatis pet. .. incerta persona, .. quam
.. institui non potuisse .. incerti persona
nulla fuit .. incerti institutionis
delegatis Vlpianus infra .. ..
.. incerta persona .. ..
prudentibus .. ut .. testatoris
voluntas .. iis .. verbis
.. conditionibus .. vulgatis ..
.. demonstrationibus .. incerto ..
iudicio .. Ulpianus

V.º Castellionen[sis] cons. [illegible] consilium de bello ... Barbatius ... Socinus ... Salomonius 23 ... Alexander ... Baldus 209 ... Curtius ... Costa ... Decius ... consilium ...

Hec tamen ... stabilita ...

... in ... nec ... numquam ... probari ... ex eo ... imperito ... instituere ... nominatim aut ... vel ... quia ... consilio ... ad ... in capitolio ... legata ... in ... Digestis argumentum ... Ulpianus ... posthumus ... ex ... persona ... aliis libertis ... ex pluribus ... de manumissis testamento ... libertatis ... de legatis ... ad ... fideicommissariis libertatibus.

161.

Tertio per ... causa posthumi alieni instituto in valore ... sufficientem ex dispositione ... dubitari posse ... haberi l. et 2 et 3 ... hac sufficit l. 3 § nominatim ff de ... casu ... quod posthumus ab ... personis ... incertis ... demonstratione cadat. ... ff de vulgari et pupillari ad ... posthumus alienus ... incerta ... ex futuro eventu ... in debitis institutionis ... legatis ... ex ... 23 ff de conditionibus institutionis ... et legatis ... ff de conditionibus ... rationis confirmat ... ff ... Juris consultus ... necesse posthumus alienus incerta persona ... et tantum ... de ... posthumi ... et ... apud nos ... l. ... ff de ... l. ... 26 ff de ... institutionibus

Quare aliquid vero ... adeo ... coniecturis tantum ... aut quod vero ... sit affirmari possetis ... dicamus ... prudentes alieni posthumi institutionem ... et ad hoc ut testandi actus ... persona ... l. ... lib. ... ff de heredibus instituendis § ante heredis institutionem

de iuste quod eorum ... cogitationem ...
tales ad tollendum ad causam ... ordinationem ...
candi, tam interpretationem et heredum ag...
nec nam ... per ... vocari heredes ...
§ ille cap. infra Bald. ... adeo ut signum temporis
... naturaliter sit hore ... est dam
posit Cod. § ... ita ... hereditas et legata ...
... iudicantur ... tempore ...
de ... non ... unica § et ...
qui ... ad Cod. de caducis tollendis
Petrus greg. ... syntagmatum ... in ... Platea
cho ... ad ... Philosophorum q. 15 ...
quelus in l. ... ... n° 248. de
re ... Sonatus ... Cumulus ad ... de incertis
personis et ... in ... Menochius ...
batonia c. 26.

n° 21 Quibus autoritas Baldi adiget
Quia dimitti ... in L.
n° 40 cogitationis humane ... quem ...
foras ... nichil ... merito ...
humanis ... ff de Vul
gar. l. ... § de fructibus ff de ...
dicate l. ... ff de legatis l.
l. final. ff de ... ultima § primo ff.
de assignandis libertis merito deficiente ... hoc
... totius ... fundamentum ... posthumi
institutio ... fuit et hanc ratio ... scie
bola ... § ... infra ubi ... debet ut
utiliter ... qui dum natus erat ...

& argumenta ab generali fuit txs in l. cum inter ve
teres 24 ff. de fidei commissarijs libertatibus. Neque
obstat videtur haec ratio attenta posthumus et quia
in potestate heredes instituti non hic conatio debuit
admitti quod contento semper & superest pars tertia
nulla eorum causa precedente quod ferendum non erat arg.
legis posthumus 6. Digesta quod quod ff. de inofficioso testamento
prosequuntur antiqui resonuit ut non fortuna 4 De
viris Gregorius et Cujacius prima et nobilissimus Carranza in
tractatu de partu humani partus assignatione capitulo 2 cum sequentibus
numero 27. Ad fundamenta in contrarium adducta
prima numero 12 respondetur ad textum § posthumus
humus institutio nam de legatis. Lex vivens ff. de ventre
in possessionem mittendo. Cum Accursio Bartholo
et Cujatio in § nunc ibi. dicta infra dicimus hic
numero 2 Costa in dicto § posthumus numero 13 Videlicet Otomanus
et Wesenbergius Duarenus 2 distinctionum cap. 3
Maximo ingenti numero 208 Videlicet illa antea poterat
ad jus pretorium esse non ferenda Et quod bonorum possessio post
humo alieno herede concessa debetur ut constat ex textu
in dicto principio institutionum de bonorum possessionibus ex
d. Lex vivens ubi Guicciardinus bonorum possessor futu
rus est quae solutio tenemus agnoscerit ex eo quod heredis
nomine dignoscendi § posthumus neque accommodari suc
cedenti de jure pretorio Lex 1 ff. de possessoria hereditatis
petitione alia § postea de institutionum de bonorum
possessionibus et ob id quod utrum illum institutum pariter
mitti debeat utrumque tempus terminare ex regula
legis quamvis C. de impuberum poterit respondere, utrum
illud antea ad jus 12 Tabularum esse referendum quo
ut supra numero 16 animadvertimus posthumi alieni insti
tutio fuit permissa licet postea maxime juris pru
dentia fuerit prohibita idque referenda est

q. hi intis Cum meminit Justinian in pr inci
pio institutionum de bonorum possessio nibus

Maiore difficultatem continere
videtur hereditatis in l. cum
servus 64 ff de heredibus instituendis cui varie
solent assignari intellectus ut constat ex Bartolo in l.
si servus eius ff de acquirenda hereditate Jasone in
§ liberi n° 12 et 12 Alexandro 26 Carminio 25 Corto
Ubi Faguinus 21 Oroboniano § 41 sequi forde
ger tomo 2° tractatu 16 § 2 et 11 Donello tomo 1° select
[illegible] cap 11 ex nostro eruditissimo amaia observatio
num tomo 1° cap 13 et 7° aliis cum Bartolo quod proxime ex
istimant regula dicte legis dominus 52 ff de he
redibus instituendis procedere quando servus domini contem
platione domini instituitur quod non potest admitti in post
humo cuius affectio aut meritum considerari non potest
secus si contemplatione eiusdem servi institutio fiat ut
in d. l. cum servus. Que distinctio admitti nullo modo
potest secus si eiusdem servi institutio fiat ut in d. l. eius
cum [illegible] factis cum servis absolute ex persona dominorum
introducta sit ut post alios considerat Donelus co
mmentariorum cap 7 vel Osualdo lit. H. Jason in
in § liberi n° 12 magis probat aliam eiusdem Bartholi sen
tentiam ut heredis procedat superstitis terminis a liberis
in certo nempe posthumi sui qui intelligi intellectus
Placuit Cumano ibi Alciato in l. 1 n° 18 ff de
liberorum [illegible] tamen Boloneto hic n° 86 aliis
tempore Aboleni qui fuit autor illius legis primi
sam fuisse posthumi alieni institutionem decernit ob
quod eius servus recte potuisse institui affirmavit
l. quod [illegible] servus etiam institutionis de heredibus
instituendis in § finali et legunt quem etiam [illegible]
Cum etiam ut in aliis codicibus adest Certa in d. § post

numus n° 6 et 7 institutio nu de Legatis

Alij arbitrantur ex quod leues verbum intelligendum in certo post humi alieni n. genitibus ille aues dominum donat l. 2a § 1° ff de religiosis et sic dici in genere hereditate iacente consideram lo ventre institutu mirum in possessionem bonorum ex edicto de ventre in possessionem mittendo eum autem post humi alieni instituto exhibita gravidantes viderent nondum in bene rerum quod possent succedere si eius urbus instituerent n. mortuo testatore si nascatur post humus potest in facti tutor certo instituto jubere adire l. si generali § 1° ff de adquirenda here. et adeo facta sit unde hereditas per posthumo iam nato adquirenda aer ipse heres institutus fuerit l. adquirenti 10 in principio ff de adquirendo rerum dominio § etiam Volu institutiones quas personas cum verbum dominus heres fiat l. si alienus 62 ff de legatis 2° neque ad istam regulam ~~l. adquirant huius~~ in minus l. quae possit in capacitate iam in ii dominus obligatur natio sui capacitatis Romane amittat cum tunc ipse institutum possit ita neque eius serbus ...

[illegible]

... a quo dominus ex persona se adquirit ... adquirendae ... institutum ... hereditate ... fuerit ...

q^a ordinem matris d^o ordini doc. tacitum
jud[icio] mentem concernens qui natura sic q[uo]d per
sen[sum] l[ite]r[a]lem et considerata substantia capa
citate quam saltim ad reddendum et qui statutis
l[ite]ris habet optime effectum d[omi]n[u]s de q[ue] e[st]
sentiens ita cum articulo Bolognesio impressum
in n^o 57. Comino d[e]o fo[lio] 40. cum incontrariis
cons[ili]o n^o 9. Sarmiento lib. n^o 26. sequentibus
seq[ue]ntia venerabilis priorum. et in electarum
capitulum et talis congesta de a maria sup[er] n^o 28.

sed et haec ratio etiam.

Interpretatio sustinenda

Sic non potest. et evidenter contrariu[m] ex
regula iuris quia dolor incapacitate dominii
in no[n] valet p[er]petuam formam verbi. q[ui]a ludicis
et etiam de iure capiendi. at incapacitatis postrema
deberet in facti tantum sed et iuris est utrumque.
dicemus q^o non potest. Quomodo sola q^d p[er]
sentiens qui in facti tantum incapacitas supplere
praecedit lib^o. et infantis irregularitatis in lib^e
dicit omnis incapacitas sed ad q[uo]d tenetur, unde est
cum haec infante consistat minime tradendum
debet. Super sentiens supplendi posset, porre
item ego lo[ca] sup. interpretationem con
sentiens q[ui]a quae ea sequuntur non satis expediunt.
Unde consultum mentis eius serbas congruit qui
ipsius mentis mea natus contra verbis constituta



sed tamen aggregatur
qui post testatoris mortem nascituri erant ad
ista consideratione. ad illud tempus post
mortem testatoris quo ab eius [illegible] ut e servus
nasceretur servus postumus inveniretur
id post suos servus hereditatis capiendi quam
necessario fingere debemus. in aliis servis
respectu praesentis status semper domino con-
sideremus quia pecunia [illegible] in re de
testamenti [illegible] utique probaverimus
et ita nullomodo dominus in eo con-
siderari potest cum non entis nulli sint qualitates
l. q. § [illegible] de acquirenda [illegible]

Vindel



In heredibus fuisse 9o l. [illegible] ominus verso quod [illegible]
meditamus l. servus [illegible] de heredibus instituendis
l. in eo 33. § fin. l. hereditas 34. de acquirenda
vel omittenda [illegible] ratione dubitandi moveri
poterat quod leget talis servus hereditate capiente
[illegible] eius hereditatis nato postea postumo
[illegible] facto intelligitur servus postumi.

... in ... institutionis itaque ex petitione
... Seguitur in lege 54
... quarenta hereditate ... ... 3 ...
... Baltasar ... dubitate ...
... servi institutio ... ...
tempore quo institutus fuit ... here
ditaty ... erat itaque ... petitione
non obstante ... erat sed ...
... institutio consistat ...
... ... itaque ...
... argumento ... ut ...
... ... servus ille
hereditarius ... posset ... cum ...
... Vallgata ... ...
... 32 ... ...
... servus ... ...
... hereditarius ... ... institui
... ... quilibet servus here
ditarius ... servus in
fine institutio de heredibus instituendis ...
... litera que habet ... ...
... ... causis ...
... ... communiter ...

... Alvarez
... ...

sun. a. tt. respondendo leg. institutis
l. ley dissipatione itaq. post
quibus Antonii fab. tt. 9 coniecturam cap. 2
in fine ego vo ex septimo institutionem po
stum magistrum ex parte que proximam
llet Surisfabula habere q. ex eius ben
Calle tempore campania q. erat edictus
tyet hoc ipsas testator memorasset qui
quorumq. heraty fuisset. h. quo tempore
illas habuerit in dy. pro his edictis [illegible]
atq. [illegible] memoriam testatoris
que [illegible] Bartoliq. Jasonis Balli.
[illegible] rationes defendendo se ipsi fuerunt ad
[illegible] ex verbis deducunt
[illegible] memoria testatoris [illegible]
[illegible] iuris consultus rationes [illegible]
[illegible] proponat [illegible] quod erat non
voluntate [illegible] testare et [illegible]
bebat dubitationem [illegible] testantis
[illegible] testator [illegible]
[illegible]
[illegible] institutio [illegible] posterum
[illegible]
institutionem [illegible]
[illegible] rebus institutis [illegible]

[illegible] oneratus sit eas, immense natura editus [illegible] optionibus. Deinde [illegible] cognitio [illegible] querrellam habere potuerat. argumento legis 4 § L Cremaniumque unde § ultimi infine [illegible] [illegible] [illegible] quae [illegible] voluntatis [illegible] maxime per [illegible] impossibilitatis [illegible] ut eleganter Considerat Costa [illegible] post [illegible]

Tertio 2 argumentum [illegible]

[illegible] Respondet Costa [illegible] pomponius afirmasse generaliter generaliter postumus [illegible] [illegible] secundum tabulas [illegible] Pomponius [illegible] pupillare [illegible] in lege [illegible] 27 ff de vulgari et pupillari substitutione [illegible] mortis [illegible] pupillaris bonorum possessio [illegible] [illegible] solutio [illegible] figura [illegible] de postumo intelligi debet de suo [illegible] ambigue [illegible] ea [illegible] debet quae caret [illegible] ambigua [illegible] de legibus et [illegible] [illegible] ex regula legis [illegible]

Costa [illegible] argumento adducti.

Ex quibus [illegible] ff de legatis [illegible] in multis editio [illegible] ab [illegible] postumo sed

Respondet Lectura qui impugnaverit fluentes revocentur quae ita beneficio a fratribus proximo fidei commissum dampnosum quae suspensum vie morietur. de eius locutus [illegible] beneficiis tali pag. 5 Cujac. et dict. in libro de dona nemus in de permutationibus cap. 38. Covarruvias commentario [illegible] cap. 3. n. 5. Robertus rerum judicatarum lib. 3 cap. 3. Baldus ... ad legem ... deducere ... substituendi ... qui desperat. Videtur illud quod fidei commissum nec valet relinqui infideo ... haereditas et legatum dari ... quod succedit 87. et qui ... alligat ... est ... satisfaciat ... fidei commissum sed posthumus ... penultima alienus ... conjugerit institutum non potest, igitur nec potest ab eo fidei commissum relinqui.

Verum omnia gloriae
... quae compensat.

Posta supra n. 77. et omnes tractatus de statu ... dixerunt cap. 3. foro dialogos ... posthumum de quo ibi ab intestato probatur fuisse fidei commissum ... Valere ... Paulus quia licet posthumus alienus heres institutus ... ab intestato domum succedere ... tabelam admirare sententia Galli n. ea legem ... alia n. Gallus quia ... dubio posthumorum nepote ... posthumos ... alienos ab intestato posse succedere ... tabularum ex qua ab intestato agnatus ... succedere vocatur Lex ... et quinti ... legitimis heredibus ...

[illegible]

ex m. L. § ne eius ff de legatis 3° et ibi aben nisi
dicit natus e patris eo mensis erat a Sent. potest sibi
dominium relinqui licet ergo posthumus heres directe
institui non potuisset confirmant iura d. l. posthumus 6
in principio ff de inoff. test. l. 1° § sequitur proximior
ff unde cognati l. 1 § et iterum ff ad S.C. Tertull. illud
tenent Duar. Cuiac. Gob. et Faurell. hic Calvin. ff. etc.
iter cui Donell. octabo commentariorum cap. Bigliotti
nº 36 Ad 3um arg. respondetur qd. est contraria quae
tenet utrique l. l. renati iud. l. institutae.
Caput hereditatem exhiberi nec a bonorum possessionem ad
mittis posset utrique nominati et ex iure ciuili
prohibentibus ciuili nat. utriusque non admitti ad hereditatem
atque quia eodem ciuile iure non erat cognitus qualiter
ciuis posthumus principiorum institutionem de bonorum
possessione non cognitus de iure ciuili ad bonorum possessionem
quibus admittebatur ut patet in emancipato qui licet cognatus
sit cum tamen ne cedere non esset prohibitus bonorum
ius possessionem unde liberi eis cedebatur leg. patroni §
ff de bonorum possessionibus in cap. hec bonorum possessionem
ita excelli quam pretor confirmandi veteris iuris gratia
introduxit id potius ex his quae ab eodem emendan
di veteris iuris gratia inhibente fuerunt non ex curea
posthumo non cedantur de principio de bonorum possessione
maxime cum prohibitio instituendi posthumum alie
num ex cesserit parte ut qd diximus dimanet quae
a prudentibus ad lib. 12 tabul. contra pretorio oppositio
eque et ius ciuile appellatur l. 2a § his legibus
ff. hec disputatio ff de origine iuris prudentibus
uide et eorum subtilitatibus icti uti erat iuris pretoris cum
Iesse christo pheri fortis ad bonorum institutio numer
de bonor. possess. nº 9 precedente Costa. fol. 2

∫

Ant. Fab. in grammaticalia lib. 2 primo regio coniect. 2a Mar. ing. num. n. 193

Ad quartum argumentum deductum ex textu in l. quidam relegatus cum aliis ff de his dubiis respondeo imprimis lex casum intelligenda de iure pretorio quod alienus posthumus institui semper potuit et primum in institutione de bonorum poss. l. posthumus ff de in offo. test. ubi acurri ubi sperto alieno solutio l. ubi Albericus Menchaca lib. 2 de successionum creatione § 20 n. 183 id huiusmodi sententia ingrati quia hereditas nomen quo iuris civilis eiusque iure pretorio succedit in bonis l. 1a ff de possessoria hereditatis petitione 2o quia cum iuris civilis ibi agat de posthumo suo et alieno quod de suo dicitur et in alieno debet observari ne alias dicamus usum de iure civili admitti alienum 3o de iure pretorio 3o quia pretor posthumo alieno in successione Antonii Vni [illegible] sabemus non 3o in legatis obsed quod maius in hereditate quam in legatis periculum sit et ideo Cautius agendum l. 1a § id et si quis ff de carbon. ediso et quod directa institutione legata vero non 3o l. [illegible] ff de his que in testamento delentur unde cum textu in dicta l. quidam § final cum l. sequenti in legato etiam loquatur non potest de iure pretorio intelligi

Preterea et 4o ad evidentiorem conformationem textus cui non satis faciunt qui dicunt de quibus in l. 2a ff de legatis pretoris via portiones in § final legis precedentis Ulpianus docuerat posthumis liberis legata relicta prestanda ex edicto de quo ibi Iulianus subiecit et ideo si [illegible]

nante Vitore filius fuerit emancipatus et hoc
nomine contra tabulas acceperit legata negoti
praestari debebat ex eo quod dixi liquido distat ut dixit
ubi nostrum xiue domesticus qui suus esset testatori in
uti filius emancipatus post decepta negotia is negot
inabi potestate et eidem suus heres nascitur ... 2
... id est si posthumus ff de coniungendis cum eman
cipato ... illud autem institutio neque quibus mod
... patrie potest. huic quod negoti emancipatus fi
lius praestari cogitur legatum quod inutile fuisset ...
... esset negoti nam ex filio emancipato ...
... hic ... ex ... posthumo institutio
... de legatis ibi inutilis antea legabatur ...
lo ... posthumus institutionem ibi ... anteacedere
vat juncta institutio quae verba illa intelligit
de ... torio ex eo quod distat quae ad legata ...
fuisse cognitum ... posthumum alienum admittit
ut fuisse ... institutus.

nº 39 Unde ... fiano forcatholus
... mansta Juris ... agolo

... Verbum illud ... galleno ... quanto ...
... ita exponit ... ...
... tempore natibitaty ... ... in.
... apta ... ... nº 16. ...
... ... exeug da atenta. ... all.
... ... apud Juris consultus ...
... costa tanta dificultate o ... ...
... ... Juris ...
... ...
... ...
... Juris ... ad ... galleno.

et q[uo]d [illegible] immunitas alijs bonis ex Justini[ani] a [illegible] novissima [illegible] tantum coda de [illegible] [illegible] [illegible].

[illegible] Posthumus [illegible]
inter pre[illegible] rationes

quid hac amicus Posthumo alieno fidei commissum relinquere potuisse, q[uo]d in [illegible] sol[emn]itas in obiectos [illegible] [illegible] [illegible] [illegible] cod. de fidei commissis [illegible] [illegible] de fidei commissariis hereditatis [illegible] [illegible] [illegible] [illegible] [illegible] potuerit intelligi [illegible] unde q[ui]dam [illegible] [illegible] [illegible] ex parte [illegible] [illegible] 7. ff. de [illegible] [illegible] [illegible] [illegible] q[uo]d [illegible] [illegible] [illegible] [illegible] in [illegible] [illegible] placuit [illegible] [illegible] [illegible] alijs [illegible] [illegible] [illegible] hereditatis [illegible] [illegible] fidei commissum posthumo alieno [illegible] valere. [illegible] [illegible] consulto [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] posthumus alienus [illegible] parte [illegible] [illegible] [illegible] respondet [illegible] consultus q[uo]d [illegible] posthumus natus [illegible] minime [illegible] parte [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ff. de legatis [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] cap. 3. [illegible] [illegible] [illegible] 7 cap. 13. [illegible] 8. cap. 12 [illegible] [illegible] [illegible] [illegible] &c.

Sim. c. tauti[?] nati fuerint
quimidia[?] nasci[?] habeant

Quidam nati [?] quidam nati g. tri gemini
que ad nas cuntur, q. [struck] tot et cetera x caruerit
liberorum facile co[?] argumento [?] in q.
puberta[?] ... et cetera ff de legatis c. que tamen
successore videatur cohet postumus alienus ...
... videbatur dyeendus quod sed ... alterius
postumum nascatur, tune con[?] ... tam[?] ...
... prestaindi erat ... illa t
alieno que extat. inde quidam ... fun. esse.
mort. eadem partium distributione. Ille a
fiendo ... aternatilis ubi Bartolus Paulus
et castrensis argum. ... potest contingere
quamlibet postumus ... omittatur ad sibi ...
... argumento legis P. lame 34 § si ...
ff de legatis ... vi gemulliona[?] § illo ... de
...

Meisupra[?] ... dispositione que
a postumus alienus.

... carebat, gravius ... institutio aut legatum
in ... , ne tamen ... duebus ...
... inpotuerat recipere, quod propterea
... naturaliter ... debere ...
... dominus ... ff de cond. unde
... recepta ... naturalis ... obligatione ...
... debeat in [?] postumus, argumento ... § ...
... nec o ... in ... in ...
ex ... quibus ... aut nati fuerint ...

[illegible] intelligendus

ex forma mandati cuius credetur [illegible] verisimiliter
[illegible] quod [illegible] aquarum [illegible]
[illegible] tamen [illegible] duntaxat
habebat [illegible] cum [illegible] haberet
ut [illegible] et [illegible] aliud [illegible]
[illegible] ex quo [illegible] volunt [illegible]
[illegible] aut legatum [illegible]
[illegible] conferri posse [illegible]
[illegible] facultas [illegible] pendendum [illegible]
[illegible] [illegible] tradita
[illegible]

[illegible] dandus ex [illegible]
[illegible] ex [illegible]
[illegible] instituendi [illegible] post mortem quod [illegible]
[illegible] in formula [illegible]
[illegible] fuit dubitatum [illegible]
[illegible] posse [illegible]
[illegible] posse [illegible]
[illegible] quod [illegible]
[illegible] necessaria erat constituti [illegible]
[illegible] cum [illegible] ex [illegible]
[illegible] instituendis [illegible]
[illegible] animo [illegible] sed [illegible]
[illegible] animi [illegible] nulla [illegible] posse [illegible]
[illegible] ut [illegible] et augetur
[illegible] ex [illegible] regula [illegible]
in habere [illegible] quod [illegible]
[illegible]

ca. e talis mortis Presumus committi[?] qui [illegible]
de ave[?] or de matr. aliorumq. sit quo[?] ad[illegible]
dos[?] satisne. deberet[?] [illegible] sedere[?] in post[?] [illegible] B.
postea[?] [illegible] [illegible] [illegible]. [illegible] [illegible]
[illegible] posterioris[?] constitutionis[?] et [illegible]
[illegible]. Cl.

H[illegible] [illegible] rationibus[?].
[illegible] conquesti[?]

[illegible] nisi coniectura[?] [illegible] [illegible]
[illegible] [illegible] consuluit gallus[?] et pater[?]
Italus[?] [illegible] consilium[?] suo [illegible] conditionis[?]
et [illegible] [illegible] filiusmeus[?] [illegible] moriatur[?].
[illegible] anno [illegible] quo filius[?] moriatur[?]
[illegible] ad [illegible] [illegible] [illegible].
[illegible], [illegible] quo ex [illegible] [illegible]
[illegible] [illegible] mortis[?] meus[?] [illegible] [illegible]
[illegible] [illegible] filius[?] meus[?] moriatur[?]. [illegible]
[illegible] [illegible] [illegible] [illegible] ex qua formula
constat quod consuetudine talis[?] [illegible].
[illegible] post [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] quo [illegible]
[illegible] ad [illegible] [illegible] contrarius[?] [illegible]
[illegible]. et [illegible] ex [illegible] [illegible]
quaestionis[?] nepotis[?] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] infra [illegible] [illegible] [illegible]
[illegible] [illegible] in lle[?] [illegible] [illegible]

Cap. fatis fuit cogere per ... tempus quo ora
fuit exspectanti Cornelius maximum ad Barb-
... Cujus fuit Godefridus et Quarterius salo
monius in 28 Agnatus. fortunius ex
maximus 29 ... Carondas ... vero omnibus Casu
Cosa ... posthumus ... 20 ... agnatus ... 3 pro
... ... venit Bartolus
in praesenti ... Jason ... Johannes et Quarter
... ... cap. 28
... ... posthumo ...
... ... contractu ... ...
... affirmans et sua correctione ...
... ... sed sunt posthumus
institutus ... ... exea
... et conditio quae ... in postu-
... ... posthumus ... nulla ...
... in ... nullo casu ... nullo tempore
... ...
Maximus et Cornelius ... ...
Continuando cap.
... ... generale ...
... ... primum
... ...
... ...
... ...
... ...
Gregorius ... ... 22 ... Par-
tita 6 ... ...
... ...

... ...

ad 2. conditio ut institutio consistat et momentum ut effectum habeat requiritur cuiusdam hereditatis quam in dicto instituto heredis ... quod ... in institutionem ... conditio ... et consentitur ... habeat ... quod ... tempore ... aut ... de hereditatibus institutionibus ... commentarius ... cap. ... Antonius ... lectorum ... gregorius lopez ... Partita 6.

... ad ... in casu ... respondeo ... regula ... ad institutionem ... habeat consentiri ... Placet ... de regula catoniana ... conditionem ... legatis ... de legatis ... ratione ... conditionem ... et ... conditionis ex ... regula ... ad institutionem ... multis ...

Resp. Doct. Oswaldi ad Donellum lib. 6 commentariorum cap. 3. circa finem.

Haec igitur quae communiter autores doctores malarum formularum quas solent observare significatione, ut et exceptione postumi alieni institutionem omnimodo huius quaestionis expositionem defenderent, extractis allusione ipsa nequaquam in commentariis. Addiderunt ipsi particulam "si" aequo modo in alii apponent, et adiungunt contrariae partis fundamentum deiectum ex principio institutum de bonorum possessionibus contra tabulas, nequaquam satisfieri potest respondere ex eo enim probari postumum alienum institui posse, imo potius ex eo contrarium comprobari, ex illis verbis quasi sive dicit in incognitis, ipsa imperator docet postumum antea incognitum iure, sed amplius dicit ipse confirmat. Ma verba quamvis hereditatem sibi dici non poterat ex quo consequitur cum institutionem sibi dedit, sed facta est. Igitur fuit electa et proptera impediti postquam aditionis. Sed enim non alter probatur Ma verba cum institutio in tabulis quod aut recte exponat.

Decius super [illegible] [illegible]
defecerit [illegible] nostri [illegible] & ex

[illegible] Ad causa[m] in nullis [illegible] difficultates
[illegible] [illegible] in [illegible] exclusive cautionis [illegible]
que [illegible] [illegible] a patre [illegible] [illegible] [illegible], [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] postumi [illegible]
[illegible] [illegible] ex [illegible] liberorum [illegible] [illegible]. Bartolus
[illegible] castrensis [illegible] Baldus [illegible]. [illegible] n. 45 [illegible]
n. 28. [illegible] in [illegible] confirmationis [illegible]
[illegible]. [illegible] fundamenta. [illegible] quod aut [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] filii [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] post mortem
[illegible] [illegible] [illegible] [illegible] quod [illegible] aliquo
[illegible] [illegible] [illegible] [illegible] admittendum [illegible]
[illegible] succederet [illegible] secundum datum [illegible]
[illegible] [illegible] [illegible] ut [illegible] galli [illegible] postumi
[illegible] [illegible] [illegible] [illegible] antiquum quod
postumum alienum institutionis [illegible].

Sequitur [illegible] galli
[illegible] [illegible] in [illegible]

[illegible] quod [illegible] antea alienum postumum instituere
[illegible] [illegible] a gallo inventum [illegible] [illegible]
[illegible] [illegible] [illegible] inutiles [illegible] [illegible]
quod primo capite alienorum postumorum institutionis
qui [illegible] testantis nascerentur premisit [illegible]
formula galli ex iure antiquo [illegible] [illegible]
[illegible] [illegible] tam quo ad postumum [illegible] [illegible]
[illegible] que ad [illegible] post mortem testatoris

rule l. 22 §. Proventu dubitandum est de eisdem
dicta ratione careret cum res tam cognita reperiatur
quod admittendum non videtur est quia non tota institutionis
vertitur hic instans mortis institutio cum sequatur
successio eius mortis. servanda institutio ille quidem
forte illi videatur et illa autem institutio quod regulas
iuris antiquum l. igitur circa admittamus ex eis sanius est
fateri quasi formularia iis novis inducta esse

Sed adhuc adversa
doctoribus et religiosos
Ne Reconditi videntur tradita ex positiones
et alius nempe ex diversa formulas ordinatas instit.
quas nepos digno in nostro Iure posse aliter
dari ab institutione necesse dicta constat. respondemus non
nepos in ex tempore instituitur quo sublimis l. similes et
consequenter eodem instanti quo filius moritur
ingressio excluditur anteriorum et posteriorum temporis ex quo
eius nepos pro qua est suus necesse momentum ad hoc
oritur se inveniat nec ex iure. Regulae dicitur in
instituto facta servetur quae ex tempore dici non potest
accipere consequentem nulla ex regula Iog. hereditas 34
de here filios instituendis quae procedit casu quo post
mortem testatoris potest dies venire sequens in for
mula gali. in qua dies vivo testatore venit ut
Recte considerat post alios Antonius fab. lib. 9 con
iecturarum cap. [illegible] 23 fundamentum respondeo ne
gando sequelam nam ex formula gali. exclusis
primis filiis indicta nepos nascitur ex utero post mortem
testatoris recte instituitur. Ex quo inde sequitur

... in Falii ... erat ... pacto ... tradita ... in L ... modinme ... Ad tertium ... licet instituti informatio ... tempore ... vacat ... omnium ... institutionis posthumi ... admittit ... tamen talis institutio ... tempore quo Falii ... capax ... vale ... juris civilis ... ordinatum ... in l ... tempus de heredibus instituendis ... quoad institutionem ... sua fortuna ... Gallus induxit inducere enim in mores aut in rem publicam aut ... dicitur at ... inducere ... latine locutus ... dixit ... ex Cicerone ... Conan. lib. 10 commentariorum cap. 4° n. 2 ... Gobean. in ... Donel. verbo induxi Cujac. in ... formul.

N° 54 — 2° de formula Galli

Mortuo ... obtuit ... filio vivo ... si filius meus ... heredes in ... caduci ... pertinebit L. unico § ... L. Papia ... § 2° C. de caducis tollendis ... in fragmentis ... 27 ... agnatio ... nepotis ... poterit ... ille ... nullum ... L. 5 ... post defectum

ipsa, nisi nepos instituatur tunc ipso iure est nullum quia ex exheredatio non necesse fit aditum ita pretoriis manet ratio indebiturum non est. Una cum posthumus nepos instituatur sub conditione si filius vivo testatore moriatur adque ita nepos non possit esse heres nisi post mortem sui patris ex exheredatio eodem ipso tempore effectus sapturus est cum adita demum hereditate locum habeat. lege Papinianus §. si sub conditione versiculo contra ante aditam de inofficioso lege filium 20 versiculo sed cum ex exheredatio est 33 tab. lege si ita scriptum est § finali. cum Bocth. et sequentia propter iura in omnibus in supra illa nam frustra ex exheredabitur post mortem suam fit ut dicitur in lege B. § filius inter medium cum Bocth. igitur si non superveniatur casus galli formula consideretur tunc est ipso iure nullus.

intanta difficultate cum costa ubique animadverto galli Aquilium de instituto maximo quam de exheredato filio in formulis suis tempore eas tamen in ex exheredato filio procedere posse cum et supra dicitur nam minus sollemne tunc sat. cum filius in eo exheredati quarum cum instituitur et quam et intelligit etiam observatur quae de filio exheredato loquitur de quibus Posthumus l. 3. inferre de conflicto multo per posthumus instituta est ex exheredatione liberorum tamen intelligendum est suppositum terminus habilibus quo filius seu filio ex hereditate alter eodem gradu fuit heres institutus. quod non negabit Zebola immo in omnibus dum boque filium frustra ex exheredari.

de injusto rupto et dicta Galus ut ait Corras
ad miscellaneorum cap. 23 incidit oraculo etc. Cui
deficultati omissa certe qq tanta. Alciati lib. 3 par
radoxorum cap. 6. et traditi est Lelio Taurellio
in § in origine huius legis junior sententia beneigo
des cap. quidam 2a diuinatio. et traditur a aagiato
3 emendationum cap. 8. Othomanius in indice legum
romanarum ad 4 Julia devian tandis. Ba: Brissonius
ad 4 Papia in principio veriu dicedu videtur
Galu malo formulæ ut et diximus illam instituit
ut filius herede instituto mortuo in vita sibi negoci
eius locum sibi in teneri nec ad excludendi caduca
que aut non dum erant caduca aut in negotio locum non
habebant id nec ex defectu heredis instituti orti
fuerunt ita l. 1 g ta du deficiente a principio
vent l. 3 § ultimo § hoc ibi qq dicit dit justi
nian d l. 1 in principio ut ille qui testam fecerunt
ditentus adeo ex eo fuisse caducorum obser-
vanti firmant vel substitutos introduce-
rent nec firmant caducaque sententia non sic ibant
tuenda est ut substitutos post ll. caducarios
ad eos in repetendis fuerint inventi non ut Cuja-
cius in gestis eos substitutos multo
ante ll. caducarias fuerint introducte nam ecce ex
decem fuerari l. de qua in l. 4 dixit deberet hoc
potius § d. de ea defenda ii ad substitutos multos
et eius quas testantes ex prudentiu consilio
usos fuisse dixit et ut facere excludere
pluribus heredibus scriptis et veteri substituebant

aut unum eorum aut oes uno l. ⁊ l. gorest 36.
(b) Vulgari et quotres substitutus succrebant firmum ex claudebant l. Fitu 24. l. alque 26. de here ditis instituendis et in formula legandi et instituendi
... qua indictis jurita qui quidam facite substitutionis tire l. quia tacita ... substitutionis ... tentia e l. Papia ita l. unica in principio ... inter ... in l. ... ex filio 89 § Ultimo de vulgari
n. 55 Id adhuc ... tradita solutio ... dictis difficultates non elaguant eius solum ...
et cum habeat quod nepos posthumus fuit substitutus in ... non e ... quasi caducum ... morte filij heredis ... in vita testatoris ... tamen ... substitutus ... posthumus nepotem ... et non substitutum ... difficultas ... robore manet qualiter ... ... quod irritum ... erat et quasi caducum facta ... morte filij heredis instituti ... in vita testatoris nec ... potest dici ... valeat quia incipiat a substitutione cum nepos non ... substitutus ... ... tamen ... voluit ... videre ... ... nativitate nepotis posthumi ... ...
... ... Prete ...
... ... operatur filij instituto ... ... Bocth ... ... in forma ... ... substitutatur

post mortem suam non intelligendum cum nullus in gradu sit heres institutus cuius aditione filii ex hereditate possit confirmari ... heredibus ex hereditate post mortem suam institutis ... ita si constituerit ... ultimo cum similiter ... ex hereditate ... filii confirmabile ... consequens erat ut postumi nepotes ... praeteriti essent ... agnascendo rumpere potuissent cum ... pater ... instituisset aut cum fuerat vita ... ab alio herede instituto ... ratione ... animadvertunt Costa ... et quaestiones ... in parte ... Antonius faber ... coniecturarum cap. 10.

tertio ... fortius

... solet ... illud verbum ... sive ... nuare videtur postumi nepotes institutionem in mera facultate ... necessitate consistere argumento ... inquit quia ... ad ... quin ... necessario ... ea omissa ... rumpatur agnatione nepotis postumi ... postumi originis ... singulo ... sed ... accursius ... Cum inquit post ... nepote habet ... tenentur ... testator ... testator voluerit ... non rumpi ... tenetur

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instituerit. ita Bertolus in l. si. n. 3.
Jason in 2a lectura n. 24 et 2 n. 26.
Fortunius 35 Sarmiento 26. neque adversatur text. in l. si fidei commissae § 8. de verbor. delegatis 3. in cuius specie per verba poss. induxit necessitas taliter ut heres ad fidei commissi prestationem compellatur nam omnis Jasone ibi n. 7. respondendo & inde per verba fidei commissum induxit ex verbo posse. quod maxime consilium quae necessitatem importat. ut constat ex eodem text. versiculo neque per se possit ex tacita voluntate testatoris qui credidit volvisse ut ex illa ad nepotes perveniat quae voluntas ad fidei commissum sufficiens l. 19. nutu. 21 delegatis 3. l. penultima delegatis.

Quarto ad formulam
pali ibi indegem-
mensibus proximus de obstare videtur quod ex medicorum assensu probari potest multi enim inveniuntur unde septimo et 22 mense posse partus edere et in tertio mensibus primo mulieribus pariendi tempus in ll. ceterorum animalium conjunct. Aristoteles 7. de natura animalium cap. 4 Plinius 7. naturalis historiae cap. 5 et lib. 11 cap. 3 et vlterius et esse per varia ex autentico de restitutionibus et eaque peperit in undecimo mense quos mortuus est ut ex siquidem vi. 1. ad eius collatione 4 undecimo.

Cu verbo indigen favere valere
institutione ... quae ... post decem
menses intra ... dies quae sequuntur
... forminus ... ..aquiellus
... ... liberos ... 210
... ... cap 7. menoquius
de arbitrariis · casu 89. n 40

sed contraria sententia quod natus
post decem mensis nondum natus probatur

... ex ... ... indigen menses
... ... ultimo ... et legitimus heredib. ... natos post decem menses ... ultimo ... legitima de
... ... presumatur ... legitimus ... presumitur tamquam ...
... ... probationem in contrarium
Glo ... 50 ... ultima ...
... Accursius ... contrariis ex colle
... 7 menses ... statutis ... in
... ... columna 5 ... aula ... 37. ... son
... ... 4 ... 23. ... 4. ... mas ... seria de la natura ... tiempo ... el engendramiento, despues de la muerte del padre no debe ser contado por esto.

... ... tiempo de la engendra ... ...

... fundamenta con-
traria ... ...
... ...
... ... que razo ayudant

in Cod. frequentissima q. ma. ad ea. de legit.
unde n. obstat text. unde q. univ. in autent. de
de restitutionib. et ea que parit. dec. unde primo
mense completo qq. verb. a contrario sensu
probat qd si ad uxori completo undecimo mense
mulier peperit n. procederet ille text. et
respondendo l. argumentum a contrario
in procedere qdo resultat ab sonus intellectus
ita combenit lit. a cod. de episc. et cler.
... ma. dec. agit. de imponenda pena
mulieri intra annu luctus nubenti et pa-
renti quis eadem punitur si undecimo
mense completo pariat ma. tunc partus
presumitur qd n. l. mariti mortui. atque
consequens a contrario sensu. posset alio
dici partus legitimus quando natus intra
septem menses quis interpretatio ad lite
... de ... et pena res
... ad mitenda l. ita ut ...
... septem menses. ... indistinctus
... argumento text. ...
proposito

Ultimo contra formula
... ...
... qd n. sit eadem. con-
... qui et filiorum ...
... dotione ...

Versiculo sed et ita ex quo in parte [illegible]
[illegible] actione [illegible] nostri [illegible]
filii et in filiis [illegible]
[illegible] inter postumos et filios [illegible]
[illegible] quod postumorum
[illegible] masculorum [illegible]
[illegible] et equaliter acquirendo [illegible]
[illegible] singulo in eo [illegible]
[illegible]
[illegible] versiculo sed et ita ideo [illegible] in formula
[illegible] postumorum ex filio [illegible] nato [illegible]
ex filia [illegible]
[illegible] Ratio [illegible]
[illegible] nullus [illegible]
[illegible] versiculo [illegible]
[illegible]
[illegible]
in ita [illegible]
[illegible] ex quo constat quod [illegible]
postumorum [illegible]
tumos masculos et feminas neque [illegible]
[illegible]
[illegible] masculinum [illegible] femininum
[illegible] ita [illegible]
[illegible] testamentaria tutela [illegible]
[illegible] ad alexandrum [illegible]

[illegible]

Jasone 59 in presenti ... cujus regula ... in presenti ... constat ex illis verbis ... posumus ... dicere ... in verbis sequentibus ... ex ... ad ... declarationis ex ... in mutant ... disputationis 8 ... de regulis ... late ... in presenti ... 54 ... 82

Sit laus finita cum laudes et gloria omnipoten[tis] Dei patris et filii et spiritus sancti.

... domino doctore Paulo de ... meritissimo ... anno domini millesimo sexagesimo vigesimo

(7)

AD RUBRICA

tituli digestis de adquirenda hereditate

De adquirenda vel omittenda hereditate inscribitur noster titulus secundus continua shoore. ad presedentes meam. Re quemullius fere utilitatis est, immo memur, videndi videria. Acursius impresenti. Donelus lib. 6 comment cap 3 § 7. c2 ...
Richardus et deo Laudatus in lectio ad nostrum titulum, c. L

Nostro titulo respondent alii quo in Cod. Justinianeo vide licet desture de liberandi et de adquirenda hereditate, et de repudianda hereditate Justinianus enim cum humesit, que pertinebant ad ius de liberandi.

or. ene re. ita
or. c. z. l. ... form
a no ... Vete
ref.

ad hereditatem adquirendam et separabuntur que per tinebant ad hereditatis repudiationem in pandectis vero contrario trevonianus iustiniani autoritate ea que pertinebant ad adquirendam, et omittendam hereditatem et separabit in alio titulo videlicet intitulo de Iure deliberandi ea que pertinebant ad deliberandum ius convenientius in eodem nam cum ius deliberandi consideratur antequam cabeatur hereditas ut diximus in ferrius cap. 2 prius ore sedere debebant que atinent ad ius deliberandi et sine alterius tituli inter missione respondet ena nostro titulo titulus instituta de here dum qualitate et . ut explicat donelus lib. 7 com mentariorum cap. 2

Igitur cum in pandectis scribatur hoster titulus de adquirenda et omittenda hereditate ut ipsius materia recte per sparatur explicavimus singula rubricae verba in si piendo ab ultimo, nempe hereditate quem do fendo ordinem secutus fuit duarenus cap. pri mum et cap. 2 et converso ordine in primo verbo videlicet adquirenda inspiciemus quod ut scripsit idem duarenus cum diximus adquiri, et omitti hereditatem necesse est, ut prius dinte ligamus quid sit hereditas itaque tractabimus in cap. 2 et ut perfectius exponamus in nostro videbimus unde derivetur hec nomina heres et hereditas, et que sit ... hereditatis et homologia sequendo in eodem cap. tractabimus de diffi nitione hereditatis. 3 de condicione postea in.

Cap. 2 significavimus verbum adquirenda Cc.
unde in cap. 3 verbum omittendum

Vnde deriventur hec nomina Hereditas et Heres et que sit here(ditatis) diffinitio et quomodo fuerit introducta Hereditas et quo iure. cap. 1m

Vnde deriventur he no-
mina heres et hereditas
inter neotericos iuris interpretes contro-
versum est. alii hereditatem et heredem aere et
era derivari contendunt. ut heres sit quasi
dominus, hereditas quasi domina, veteres enim
heredes pro dominis apelabant testante Justiniano

551

n. vero ... cum ultimo ... veteres ... Labant.

§ ultimo instituta de heredum qualitate et: hec opinio fuit accursii in lege item mela ... § singulares verbo ere ff ad legem aquiliam defendunt Connanus lib. 10 commentariorum cap. § ffornerius lib. 2 selectionum iuris cap. 26. Cuiacius in notis posterioribus ad dictum §um ultimum institutionum de heredum qualitate et: et lib. § observationum capite et lib. 10 cap. 26 et alii quos referunt et sequuntur Vigelius in notatis ad donellum lib. 6 commentariorum cap. 2 litera E. Antonius pichardus ad nostrum titulum dicto cap. 2 nº 2 Iphanius in ... brica nº 6 ff de adquirendo rerum dominio et in dicto § ultimo instituta de heredum qualitate nº 2.

Alii sugerendo notiorem derivationem impugnant putantes heredes non ab ero, set ab ere derivari quam sententiam defendunt Anglius in dicto § ultimo nº 4 instituta de here dum qualitate et alii laudati ab Vigero ubi supra cum enim ae pecuniam denotat et pecunie appellatione omnia que possidemus definientur lege pecunie 268 cum similibus ff de verborum obligationibus et heres subcedat universitati bona que defunctus habuit, heredes ab here dominari contendunt et ex eo affirmant recte convenire cum hac opinione definitione hereditatis tradita a ... ... sub paragrafo 10 videlicet quod hereditas est pecunia que morte alicuius ad quempiam iure pertinente ...

fuit legata ut aut opinione. Secunda
de qua definitione conferemus amores tractan-
dus; que quidem ratio comprobari potest multis
auctoritatibus dictis. a Comana ubi sup. con-
ducit quod verbum heres antiquo more sine
aspiratione scribebatur: cum videlicet testante
Clefacino ubi sup. eandem sententiam tuetur Garcianus
lib. 2 variarum lectionum cap. 25 nº 3. ubi ampliare
rationem Justinianus ind. i. ultimo instituta de
heredum qualitate et differentia. Redargue
et scribit numquam de lege veteris heredes
opido mirum assiale.

nº 3 — Alii existimant heredes
ab verbo heres descendere a
herus dicatur ex eo quod defuncto heres et con-
iungatur, ita ut idem de videatur qua opinionem
complectuntur Oromanus lib. 2 dmicabilium
Cf. Vbesenbegius ad tit. ff. de heredi.
bus instituendis nº 2 Vigilius ubi supra.

nº 4 — In hac controversia
ut advertimus de opinione
nº accursi de qua sup. nº 2 videlicet quod heres
scribitur ab hoc nomine herus et quod heredibus
scribitur ab hoc nomine, hera coniugat enim. quae
qui sodeanus cum contendat: veteris heredes prodo
mirum asciale. ut est ~~Plau~~ Plauto exalbus
adducunt. Cusacius lib. 20 observationum cap. 6.

Rustanias ubi jur. et comprobatur praeter Jus romanorum auctoritatem. ind. § ultimo Instituta de heredum qualitate et differentia. C. de heredibus tamen 4° lib. in tamen sicut heres vivo filio vindictam ser... imposuit. ff. de castrensi peculio ubi illa verba ut heres intelligit Cuiacius lib. 20 observationum cap. 26. ut dominus. sequitur Anto[nius] Faber lib. 4 Coniecturarum cap. 5 et lib. 7 cap. 4 et lib. 14 cap. 2. et de erroribus pragmaticorum decade 3a errore 1 an 4 et 3 § pomponius penultimo ff. de minoribus, Angelus tenet verba illa quasi heres intellexit quasi dominus cui tamen in assensor in eo quod ibidem scribit illa verba dicti § Post obitum eius delenda esse quasi ab imperito interprete addita. comprobatur ipsam ex textu ind. lege qui pecuniam 22 ibi hereditatis me dominus esse. ff. de captatis liberis. lege is vero 48 ubi hereditatis me dominum esse. hoc nostro tit. de adquirenda hereditate et in l. si quis § fin. ubi omnia pro domino administrarerit eodem tit. et multis aliis Juribus adductis a Brissonio lib. 8. de verborum significatione. herede heres agno... sequuntur omnes qui post eum scripsere.

N° 5 — Hic etiam constat hereditatem dominam appellatam in l. in minus 32 § 1 C. de heredibus instituendis. lib. n° 23 § servus ... dominus ... vitae ad ... hereditati fuerit ... hoc dominus ... uber esse invenit ... ut ... dominium

[illegible]

locum g[e]n[er]a[li] desider[a]t et m[a]g[is] stante ad[h]ac
[illegible] q[uo]d dominu[m] loco habeatur ingrediatur,
et videnter vocationis, inducere faciendu[m] et al[ii]
multi [illegible] opinionem accurrit, et i[n] o[pinione]
opinionem [illegible] transitu[m] heredes ad [illegible] de
[illegible] per heredem de re[bus] sine [illegible] longe [illegible]
ipsi [illegible] libris extanter in nostris [illegible]
repositis, et extante Infamio ad rubricam, de acqui[rendo]
rerum dominio [illegible] n[umer]o 6. cu[m] tamen nemo sit
qui non videat verbum [illegible] [illegible] scribi neq[ue]
impediet [illegible]. Antiquitus heredes [illegible] in
heredem [illegible] Infamio [illegible]
[illegible] n[umer]o 2 et imaginandi [illegible] florentinis adhuc
fuisse appositiones q[uae] respondendum est in illis
pandectis [illegible] omni[bus] q[ua]m ad literam, [illegible] utex
[illegible] ultimo [illegible] vendit [illegible] ubi
[illegible] legitur [illegible] et [illegible]
[illegible] lib. 16. comentariorum cap. 12.

n[umer]o 6 —

Non est [illegible] obstat q[uo]d adducitur
ex etimologia ad [illegible]
[illegible] argumentum negative [illegible]
argumento [illegible] 29 § apelata, [illegible] creditis
[illegible] § consequitur cap. [illegible] 33 et 24 [illegible]
[illegible] q[uo]d sequitur dominum ne[c] q[uo]d [illegible]
[illegible] [illegible] quirenda
[illegible] verum [illegible] heredes ad [illegible]
[illegible] heredis [illegible] apellasse q[uae] respon
[illegible] intelligendum de [illegible] de eo herede quire[n]d[um] aliena

videlicet quae non erat defuncti inventam in here-
ditate occupavit bona fide existimans eam
fuisse defuncti aut esse hereditariam, hic enim
quamvis illius dominus non sit antequam eius usu-
capionem impleat, tamen pro herede possidet, et l. pro
domino. Comiam licet quod attinet ad possessionem
in genere sumimus, non sit necessarius affectus
dominii ut in multis alibi defendimus, adhuc
ut pro sedat usucapio rei alienae oportet ut quis
animo domini eam possideat et l. bona fide ut
colligitur ex texto gl. in principio instituta de
interdictis sequitur quaremus ad textum de adquirenda
possessione. unde illa verba dictae legis interdum ante
quam dominus fieret intelligunt ut l. antequam
eius rei usucapionem impleret, perquam non solum
opinionem et existimationem suam sed revera
dominus fiat per continuationem possessionis
usitatis in l. 3 ff. de usucapionibus, ita respon-
dent ante priores nostri ad d. l. 9 inter
dum 22 etsi liberam credunt, cum preceptionem cum
difficultate.

n. 7 — Ceterum adhuc indiget ex-
plicatione, constat enim
ex littera textus, eum qui pro herede possidebat
non esse heredes defuncti sed alterum esse heredem
extraneum veluti cuius qui pro herede rem
possidebat ante quam dominus fieret precario
ab herede eam rogabit quod non potuit fieri dominus
[illegible]

[illegible] in verbo haerede [illegible]
[illegible] videantur unum verba [illegible]
[illegible] consulti [illegible] autoris qui in
[illegible] fuit [illegible] consulendus quamvis Plinius
lib. 6 [illegible] epistola ad Voconium [illegible]
bat aliquot Celsi et Quintiliani [illegible]
videndus Carmientus lib. 2 selectarum cap. 2 [illegible]
scribit [illegible] intendunt nos posse tradere pos-
sessionem quam ipsi non habemus et exemplum [illegible]
[illegible] verbis velut [illegible] pro herede
[illegible] ex quibus [illegible] [illegible]
et [illegible] possidet ex [illegible] [illegible]
[illegible] possidebat [illegible] potuit usucapere [illegible]
[illegible] in possessione usucapio [illegible]
[illegible] usucapionis [illegible]
[illegible] videndus Donellus lib. 5 commentariorum
cap. 5 [illegible] notatus [illegible] possessione
[illegible] [illegible] [illegible] lib. 6

[illegible] Ut ad [illegible] difficultatem
[illegible] [illegible] anno
[illegible] variis [illegible] interpretationes propono
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] filius fuit institutus heres a matre
in qua [illegible] hereditates [illegible] Caius [illegible]
[illegible] fuit [illegible] et ea bona fide [illegible]
[illegible] eandem [illegible] possessionem
[illegible] [illegible] quaerat [illegible]
[illegible]

hoc facto transtulisse possessionem in alterum

in a primo: jure Consultus itaque conform

me l. juris regulis ut constat ex textu in l. illa

et pro emptore quam accursii interpretationem

amplectuntur Rubricas, Gregorius Lopez ibidem et

Paulus Castrensis sed quia talis esse interpreta

tionem approbat Alexander contra, qui adit pro

positum suisse exemplum in dominio, nam poterit

videri dominus quod hoc maiorem difficultatem con

tinebat cum heres dominium nunquam habuisset

possessionem illius rei acquirit, videretur difficile

prelatione rogatione transferri in ipsum possessionem

quam nunquam habuit. Videamus Alexander

in l. sua aliter intelligit eum textum ad veritatem

negocii ubi scribit duos fuisse heredes simul

institutos. Petrum nempe et Franciscum, et res

aliquas ex his que erant in hereditate, ille

testatoris seu Francisci coheredis eas que ab ipso

precario accepisse alterum coheredem ut ita ver

bum heredis in dicto l. contendit intelligatur de

coherede aliter intelligunt Cuiacius ibidem

et Hofmanus in l. 2 Castaneus n° 2 sequitur in

terpretationem accursii aliquam intellectum expli

cantur quod adiposset alliam interpretationem in

aliquam notandus videre

n° 9 — Ita neque quod verbum

heredis in fine dicti textus

intendit de acquirenda possessione intelli

gatur ita... heredes de dominio ut nominis

videtur.

videtur aut impo ... . utrumque
dicimus videri, herides ... ad possesse
ex qua interpretatione ... multi ...
qui exalis ... sequitur hanc ...
... interdum ...
heres fuit ... et interim here
... alienam qui videlicet erat semper
... veriam fidem et titulo pro
herede ... possidere postea antequam usucapio
impleretur dominus ... eam ...
possessionem precario ... Accursio
... hoc facto ... ...
... usucapionem ...
... precario rogatione
... pro emptore

n° 40 ...

Sequendo hanc interpretationem facile satis fit argu
mentis ... respondetur ad primum ...
... dicimus ... ante
cedenti ... dominum et ita ...
... bona fide ...
... pro herede usucapere ... alienam ...
... ad 2um respondeo ... possidere illam
... alienam et pro herede ...
... tunc enim ... pro
herede ad usucapionem ...

antiquam christi notitiam a Tex. ins. si clerus. operatis
in instituta ad aquirendum: lib. ut ex variis ley. Sq. de
Regulis Juris. in 3° ex dictis quod cum multis aliis ..
adquiret ad possessione et ideo orreceami congregatione
iusque. ipsius possessione quam non haberet in temporariis
quam mutata qualitate possessionis possidevit ut dominus
verius non pro herede ut possidebat ipsum ut sic recte con-
veniat exemplum regule proposite aquiris consultus de
quinterdum unde licet accedere aliquid ut quis tradat posse-
ssiones quas non habet, exqq. que facile ad ab ta ri possunt
ad intellectum accurssi interpretationem mentis et
Sitarii quos retulimus sup. n° 8. colliges non probari
inde quinterdum quas de heredes et tamen non de domi-
nus in ipsius qui pro herede possidebat [illegible] ut constat
ex ipsius propositio heres non erat quod res erat aliena ad
quam de nec erat dominus ante completa usucapionis tempora ... ex superioribus satis factum ma-
net praecipuis argumentis quae adversus opinionem
quam defendimus nempe quod verum heres ad verba
heres eum dixit et hereditas ab hoc nomine ...
... aliis argumentis satis faciunt doctores ...
hanc sententiam amplectuntur et satis fit ex his quae
tradit Aldenus lib. 22 noctium atticarum cap. 3. Laudatus
a gulatio 3° lib. 20. obser vationum cap. 26.

n° 1 ...

Satis iam de ethimologia heredi-
tatis definitionem tractemus

Orgua 2 ...

Secunda loco tractans Eminentissimus in sua constitutione quinque capitulis et sequentibus tractat Varrius in nostris Rubrica num. 2. Haereditas igitur sic definienda est: haereditas est successio in universum ius defuncti; habuit hanc deffinitionem [illegible] tradiderit Gaius Iuris consultus. [illegible] in l. nihil est aliud 24 De verborum significatione [illegible] in l. haereditas 62 de regulis iuris eadem deffinitio colligitur ex qua fit quod ille qui in universum ius succedit [illegible] successionis [illegible] heres [illegible] omne defuncti succedit de bonis et temporalibus [illegible] [illegible] 9. § heredes [illegible] sunt de heredibus instituendis [illegible] in omne Ius 37. hoc nostro tit. de adquirenda haereditate [illegible] heredes [illegible] de Regulis Iuris et in multis alijs Iuris locis hanc deffinitionem defendunt et explicant Bartolus in nostra rubrica num. 2 et ex eo sequentes communiter ibidem et in [illegible] Menchaca [illegible] de successionum creatione in q. [illegible] 33 n. 8 Covarrubias lib. 2 commentariorum cap. [illegible] Peralta in l. 3 § quibus commissa n. 209. ff. de heredibus instituendis [illegible] [illegible] Commentariorum cap. 2 [illegible] [illegible] laudati [illegible] Richardus [illegible] laudati de Rubrica [illegible]

an° 17 etiam nostrum §. 3. Cobarr. 2 ind. 4

n° 12 — Sed superior definitio

ex ipsis verbis traditur a Iurisconsultis in d. g. 24 ex verbis si conditio ne etiam d. g. 62 de regulis Juris ubi ab eodem deffendenda sit absque contradictione, nisi defuncti qui alia verba adaucti, sumpsit definitionem quo ad ius attinet. Mascarenas lib. 2 opinionum cap. 13 Juris consultorum definitionum praeferendam esse censuit eam quae tradit Tiraquel. in tractatu suo § 19 retulimus nos sup. n° 2 quo ait 2. 3. Cogimus ad nostrum §. 3. cap. 2. Peralta et Simon. ibi sup. Richardus ubi sup. n° d. Rubrica etiam nostrum §. 3 adduunt definitioni ea verba tempore mortis ut heredibus definiatur. Sic supposito innumerum ius quod defunctus habeat tempore mortis quo ad tertium Acevedus in d. l. 29 ex verbo nihil. Deciarorum Mascardus, vel ad eundem suppositio in definitione supplendas sunt. Scripsit hoc verba defuncti sibi.

n° 23 — Has opiniones retinendo

sumo quod definitio tradita existere re complecti. Hereditatis sed supposito sunt Benedictinas quam multi... ...

de hereditate ut tradit Quarenus d. cap. ideo defunctus [illegible] et possit communiter. Videndus Ingerus [illegible] audati in [illegible] ad domesticum d. lib. 6. cap. 2 litera, C, et [illegible] Caroga [illegible] lib. 2 [illegible] [illegible] romanorum cap. [illegible] aut refert et [illegible] Petrus [illegible] degenera [illegible] tropica [illegible] suo § 19 n. 37. — Cum [illegible] [illegible] optimo Quarenus et antoni Richardi ubi supra et aliorum, nisi enim [illegible] addere [illegible] defuncto [illegible] [illegible] temporis mortis [illegible] praeter quam quod [illegible] adueniu[illegible] [illegible] Quinditer [illegible] defunctus habuit satis ex[illegible] tempore quo mortuus est. Cum sit [illegible] principium [illegible] neque hereditatem neque heredem [illegible]. [illegible] de hereditate [illegible] acquirenda [illegible] [illegible] 27. [illegible] qui [illegible] [illegible] bonum [illegible] de acquirenda hereditate [illegible] 27. [illegible] ad [illegible] [illegible] [illegible] cum [illegible] ff pro herede. et morte hominis omnia solvi [illegible] autentica [illegible] § [illegible] legis. et ideo morte dominia rerum amittuntur [illegible] Antonius Faber in Iurisprudentia. [illegible] in principio [illegible] [illegible] et [illegible] Masone [illegible]. [illegible] [illegible]. quod defunctus habuit [illegible] [illegible] ita eo instante quo mortuus est. in eo instanti quo moritur ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] instans [illegible] vitae [illegible] morte [illegible], [illegible]

fe dicimus quoque ult. ff. ex iis ... de condictione

... et ... illa verba

tempore mortis ... Alciatus ... ind. 24 ...

... de regulis iuris ...

Bartolus in nostra Rubrica

... communiter ... legatis ...

... ind. 24 ... de regulis iuris

... Cuiacius ... legib.

... tit. ...

... verba ... de iurisdictione

... mandata ...

... praetor ... bonorum possessionem ...

... bonorum possessione ... Duarenus ...

n. 14.

Redimus igitur ad ... definitiones

... Alciatus ... ind. 62 de

regulis iuris ...

... illa verba

tempore mortis ...

... verba ...

... hereditas ... et omnis

... successione ... temporalis

...

...io ... ... terminus ... in ... ... sicut ... ... deducendum est. ... ... hereditatis ... ... fidei commissio ... ... fidei commisso ... ... de Iure Iurando ... ... de damno infecto ... ... ponuntur loco ...

N. 49 — ... ...

... ... hereditatis ... ...

accipiuntur

oriuntur a uario verbi ut esta subiectio secmatur
uocatus subiciendi, 2º sumitur pro re que patitur actus subiectionis in effectu vel uel in ... ing
...gen ... 3º ... de adquirendo rerum dominio
O ... desauri. ... quedam de positione ... que...
pergunt de positione intelligimus pecuniam de
... que ... positione ... de ... gº de
subiectio apellatur ... pro re eius
subiectum est ... que per subiectionem ... ..
... pariter ... sicrum principi
... Subiectio ... agio sub
prosequendi ... gº sub ordine dicitur quo modo
subiectio acquiritur ... subiciendi ... primo
sumuntur ... verba. pro re que agit quo
modo ... actionem ... que aliis ac
... fidei ... obligationem que ...
principali actione apelat ... in
... sucessores ... de fide ... sucesso...
quo sensu ... indefinitione ... hereditatis
... pro re que ... funct...
... quatuor ... aliis ... in
definitione hereditatis ... pro actu
subiciendi. alii pro re que ... o...
... aliis pro re que
... vocandi ... an ...
Deverborum

delectionem suemifficatione. Bartolus et communiter scribentes in nostra Rubrica Cornelius quintus tractat et libro 6. commentario per capitulo 2 ingenis ibi in notatis de litera. A. usque ad literam. B. conclusione.

nº 16.— Alijs opinionibus, ex Plotijs quas recte confutavit Cornelius ubi supra. verior est opinio Bartoli in nostra Rubrica nº 2 licet late impugnet Francus in eadem rubrica. sequitur sententiam Avendaño in dicta lege nisi verbo nichil. de bet hereditari licet suffi casione. videlicet quod suspensio indeffinitionis. hereditatis aspirat propter querendum quod in modo agerit in obligatione fideicommissaria quoniam propter quam agit Bartolus recte. et licet defendit Cornelius ubi supra. hac opinionem ut meliorem proprias et intelligas quomodo et quatenus ratione suspensio indeffinitionis aspirat propter quam surgit animat. Verum quod cum morte omnia solvantur in authentica de nuptijs § deinceps de filiis supra nº 13 in fine. quilibet ergo dominium rerum suarum morte amittat. ita ut amplius dominus existere nequit videndum Antonius Faber in lotis aliquis supra. nº 13

in fine

in fine ex tota re verisimili inspecta: nec bene
dicitur nullus invenit, sunt [illegible] decem,
conditione l. 3 ff. [illegible] videndus Antonius
Faber conjecturarum jurisprudentia [illegible] conditione 3a
[illegible] Jure hereditario acquiri [illegible]
me [illegible] habent [illegible]
quaerendo verum dominio necesse fuit [illegible]
acquirere. ad hoc ut heres sive testamentarius
sive legitimus [illegible] heres [illegible] dominus et
ad hoc ne isto illo tempore quod intercedit a die
mortis defuncti usque ad aditionem hereditatis
vacarent [illegible] dominio [illegible] acra
tione necesse fuit [illegible] induci continuationem
quandam dominii quod fuerat defuncti in herede
et quamvis mortem definiret quis ille dominus
et tamen bona ipsius intelligerentur facta vona nullius
ideo inducta fuit persona [illegible] et nomen he
reditatis quae defuncti personam repraesentaret et
[illegible] pro domino haberetur et usque tempus quo
heres appareret qui se dominum diceret et here
ditatem acquireret. Sed non [illegible] in fine ff
de novi operis nunciatione. Sed non minus [illegible] de here
dibus instituendis et aliis [illegible]
sup. [illegible] videndus Ant. Faber [illegible]
[illegible] et in [illegible] hereditas quod [illegible]

depositione

de iure hereditatis

n° 27. Quod Veniendus ... ut ... hin. ... aliquis ... Comunis Post mortem defuncti qui ... sauccedat ... ... omnia defuncti iura interrentis ... inuersioma ... nisi ... illud obtineat ... cum morte defuncti ... iura ... in ... Post agere ... ad heredes ... ad dicit. ... scribit ... libri commentariorum ... ... iuris ... omnis hereditatis ... velut dominia ... defuncto ... hereditate ... ad heredes peruenirent. ... hereditate ... erat in herede ... hereditatis ... nomen ... quia ... ... omnia iura ... ... heredibus ... ex superiori animaduersione

constat

constat ex supra ratione Perfictione inductam fuisse jus et nomen hereditatis ut is qui persona defuncti representaret heres succederet. ac proinde evidenter apparet quicquid aliis in contrarium ac damnet vera est opinione Bartoli dicta lege ... videlicet quod hereditas dum successio differtur intelligatur jus quod successio defuncto.

N. 68 — Hoc sensu, atque verum successio indefinitione hereditatis quam Juris fictione inductam et nomen et ex ratione assignata supra quae longius prosequitur. Cui addendum est quod nomen hereditatis in fuisse inductum ab omni jure testamentorum conventum siquidem nullatenus super esset contro... ... ... ferendi domini quod fuit defuncti in herede. Videndum Antonius faber lib. 14 conjecturarum cap. 20 Pagina 479 colu. ... ... ac proinde nullo herede existente ... nullum esset jure Pandectarum et codicis aperte ... ... haereditate que ... defuncti ... quae ... cogit ... Richardus ... jus coniectu... ... lib. 2 ... re compilationis ...

...

ubi videndi Matthaeus ubi supra in decis. Giurbas Ju-
rium lib. 2 Practicarum q. 4, q. 30, et sequen.
ubi plures rationes, rationum quae a pænaturi
adeunt. Quod videlicet commentariorum ergo sint
veluti congruentes et commoda, quae sequuntur ex
eo de legis lator, ex fictione indistinte fuit in
nomine hereditatis

n° 29 — Constat itaque quaestione
Successor hereditas defuncti

Et eius personam representet sed, ut indi-
geat adire declaratione, sequitur explanat. 3.
Ut in successore hereditate defuncto eius, ex
persona representare in omnibus, et pater
extraneum in hereditas universaliter, ut deinde
quaerendi rerum dominio, tel in vela et sit
qui captator. sibi in hereditate non sunt decap.
ubi Lagun. numero 26 dependentia actionibus, tenerem
tal ut 5. sed sola fit legum ut liberatus sunt
lus cap hereditas 23. ideo quae remanet possessione
ineorum pro constituta. Et est peculiaris ione per
domini, hi qui ero in motione in 4 quaeritur
omnes dea tuus d.istiliis legis sententia
ut consolatione cui d. h. in bello 5 2 Ceciagelly

videndi

videndi laudati de Aligiis innovatus ad Donell[?] lib. 9 commentariorum cap. 20 littera N.

N.º 20 — Sic stante igitur ista regula, quod habet hereditatis defuncti personae representationem et prodomina habere intelligendam illam, quae iura sunt ipsius hereditatis prodomina habet defuncti persona representando, servis in quibus facta sunt, et realia existentes [illegible] requirunt et veram personam hereditas non habet, prodomina ut [illegible] [illegible] [illegible] dit § Hermogenianus iuris compilatus [illegible] sane ipsius facti personae opere [illegible] desideratur, nihil hereditati [illegible] [illegible] [illegible] nomine hereditatis perfectione inducitur et effectiones [illegible] ad ea quae facta sunt et realia requirunt existentiam, iusta lex 3 [illegible] [illegible] ipsius cause maioris de [illegible] § 2. [illegible] tradunt communiter Doctores [illegible] [illegible] qui memorat [illegible] [illegible]

N.º 21 — Ex quo iuris principio [illegible] [illegible] [illegible] facti habere

haered. habeat Cod. q. denique ergo Casus Maiori
an ... ... ut possessionem ... deat
acquirendam possessionem ... multis allis adduntur
ab ... ... constitutionum ... de
interdictis nº 49 videndus ... ... q. casu
... nº 6 de adquirenda possessione Antonius
habet ... evidens ... ... q.
... ... in ... Prodomina ...
ut possessionem habeat quam habuit defunctus ...
unde in ... ... unde q.
cum haeredes ... ... excludens ...
... hereditarium ... ...
n. potest ... hereditatem ... ... unde q.
... ... de adquirendo rerum dominio
q. cum ad ... ... debeat.
Domini ... ... Bocnoltro
... cum ... ...
... ... ex ... ...
... ... cum usus fructus ... ... valle
in ... ... usus fructus ... ...
... de ... ...
... ... Usus fructus ... ... sub
conditione ... ...
... ... confirmatione ... ...

ffcommunia

ff. communicandorum reditum vendendi retrahendi
quos ordinarios Antonius faber in d. q.
desicione. Patrius sententia. 7. Andimoniamus
q. 35. latefacti fidei Antonius faber lib. 19.
conjecturarum. cap. 16. Perrotius in quo n.
ergo in d. q. ultima verbo Clarius l. de
Cene ita verba importionaliter aliter agendi
si verbo hereditario sit usus fructus legatus
tunc enim legatus utile est ius ita tradit in d.
q. usus fructus et q. 5. verbo 47. ff. quemadmodum
usus fructus admittatur et in casu tenditur in
aliis verbis q. neq. d. q. antecedente quam videlicet
refertur quam sic solicitanda sunt. cum dies
usus fructus legati cedat ab adita hereditate
sive ex quo suscepturus sive ex quo induxit leg.
Cornelianus abrogata q. Papia ut constat ex Quinti
cap. 5. de capite quod dies usus fructus legati cedat
leg. 2. et 3. deinde in abstracto. 9. quod dies legatorum
cedat. lex unica § si libertatibus legato usufructu
tunc sedit dies legati eo tempore quo eius exsistente
heres acquisit unde veraque persona capax adquirit
de usus fructus cuius erat capax hereditas cum
competit usus fructus exiuendo et fruendo,
de imment facit l. quae generica l. in primis responso
quod nec leg. usus fructus cedat inter uivos legatus
usus fructus

ad suos fructus reducere, servio hereditarios usque creari hic ut si ille a patre eius fructus percipiendum ... tam ... hereditas ... no. 9 de dum ... tenendo Regni dominio Antonius, fa. ... q. constitutionem cap. 6.

no. 22 — Sed per maior declaratio huius traditas ... no. 2.

In quo relevanda est et ex ea et ex quibus deducimus super ... aliqua doctrina ut ... inferenda ... sed ante satisfaciendum debet aliquibus difficultatibus ... doctrina. traditas. ... videtur. quod communiter opponi solet quod hereditas in defuncti sed heredis persona ... ut probare conatur ... tex. ... lib. no. 24. ff de ... ad heredem cuius personam ... hereditas sustinet ... affirmare hereditatem defuncto succedere ipsius personam representare.

... obstat quod ... videatur. ... congrua ratio cur hereditas representet personam defuncti et heredis.

no. 23 — Tertio obiicitur Paul. quod additio hereditatis retrotrahitur ... ut l. Conuingit tempus ad ditionis et tempus mortis

traunt heres quibus aut hereditate retro adyt... intelligatur etsi ipse defuncto dominij ... expres. ... heres 59 ... nostro tit. ... 28 ... ultimo de ... pulationes ... omnia fere 293 ... quisquis ... hereditate sua ... dominij defuncti ... personam ... representare

ar 29 — Cum non obstantibus defen ... facile est. ... dicimus ... omnia ... argumenta adducta supra 22 ... Respondendum ... quod licet inter ... ... prudentes ... controversum ... persona ... representaret ... defuncti ... heredis futuri ... ut colligitur ex ... 23 ... ultimo ... acquirendo ... ut ... Placet ... sententia ... hereditas ... argumentis ... comprobatur ... ex ... 99 ... varietate Placet ... verbis antecedentibus ... et ... plura vestigia. ... Romanus ... 3 ... cap 29 ... obtinuit

adtenet

accedat sententia in ultimarum voluntatum benedi
ctus representare persona defuncti in hereditate
iacentis vulgo notatur 32 § 1 ff de hereditatis
instituendis Relatio 33 § ultimo et leg. hereditas
sequitur Cead quaerendo nomine dominio .reg. con.
trarium probat text. in l. novatio 2 § ff de
novationibus, ibi illa cuius in transferenda
ad aliquem per heredes sed ad promissorem aeq.
scriptum Clar. D. heredes cuius personam
sustinet hereditas supplevit pronomen cuius etiam
et fa... inde ... igitur et unius relativo casus con.
tinetur ... interpretationem ad d. l. ...
casis assignant Accursius ...
... hereditas 6. n. 2 Cead quaerendo rerum dominio
n. 9. Cuiacius ... li... 59 § 2 de legatis 2
... sed ... prudentia ...
principio § ...
in ... ad ... commentarium
cap. 2 ... f.

n. 25 — ... horum dictat ... argu

mentum adductum sup. n. 22
... rationes assignant
... contractant ... heredi
tas representet personam ... ut ... ...
apud Mont.

aiut antonius faber d° lib 14 conjecturarum capite et inhaeret prudentia d(omi)ni f(rat)ris pro illorum ratione 3. et alios quos refert Cigerus ubi sup.
Inter quas rationes in hypotesi sent. tradit d. Ant° faber quod d(ic)ta ratione 3ª cessante ratione juris inducta ... et nomen hereditatis ad continuandum ... dominium quod fuerat defuncti ne ... res hereditariae veluti nullius fierent occupantis ut diximus sup. n° 6 quod periculo ... legislator ... constituit quod hereditas ... personam heredis in defuncti ... heres ... per institutionem ... ... quod ... de hereditate ... delata ... de ... ... hereditatis ... ne ... personam heredis bona hereditaria ... maneret ... quod heres adquirere ... ... fierent occupantis quod in continuatione hereditatis representante personam defuncti ut diximus sup. n° 26

n° 26 ... Plaset ... casus quod ... tradit Antonius faber
Lib. 14 conjecturarum cap. 20 pagina 479
... scribit defuncti personam ... nullam
Zamega 1970

tamen aliquo fuisse assertum ille qui fuerit unde ad continuandum dominium et habuit solatione opus est que reducat alteram personam. concess. per dictam legem representetur persona personaliter credi inserta est in dicto nostro quem removeramus. quibusdam adest hereditatem si de illa lege quod ... intuitu ... removerat unde in singularibus hereditatem representare eam personam quam removerat. cum posimus ex necessitate ut continuetur dominium in herede tamquam in necessariis antecedentem inducit lex et nomen hereditatis de ratio antonii fabri videtur. concludens post paridem consil. 9 lib. 14 cap. 20

n.o 27 Ulpiani de lege alligans et uti. Vim continuativa dominium in herede sunt dicta sessione hereditatis et ex ipsius quod cum nemo sit heres ante aditionem ut lege quisquis iure ipse residere ut potest quod institutus nolle adire hereditatem desinendum esse liberum continuare dominium in nolente, et ... necessario invente, ... posuit fugerit in iuria heredi ... ipso herede eum representare personam quam nolebat ipse hereditas. locus lege est argumento. leges ... ad trebellianum

n.° 28 ~ Circa tertium argumentum
adductum sup. n.° 23 animad
vertendum est verum esse quod Gregorius dicit videlicet
heredes quo ad omnia adeat hereditatem retro a mor
te defuncti intelligi successisse [illegible]
herum [illegible] Bocnotrotto ubi aliud verbum quoque in
veniri [illegible] et multis Iuribus adducit
Gregorius ubi deveniendum [illegible]
[illegible] verbo quoque Antonius Pichardus
ad nostrum § capi. anti 22 [illegible] omnia fere
[illegible]. et aliis Iuribus adversus a Gottofredo [illegible]
Deregulis Iuris atque fatetur antiquiorum nostrorum
ut [illegible] relinquitur apud Antonium Pichardum
ubi supra [illegible] sed quarra [illegible] dicamus successione
hereditate defuncto a die mortis et eius suc
cedere heredes et dicamus quia hereditate repre
sentare personam defuncti et eandem personam
representare heredes non explicat de quo [illegible]
miror cum sit hoc difficilius argumentum cuius
[illegible] [illegible] causam [illegible] [illegible] 55 § 2°
de legatis sequendo Paulum Castrensem in l. hec
lex 22 ff. de usucapionibus. Petrum Peralta
et alios quos refert in l. 3ª § qui fidei commissa
[illegible] et sequentibus. de hec [illegible] insistendum
quare a nobis inquirenda [illegible] et videndum
Respondendum

Respondendum quae sit convenientior existi-
mantium sententia Cardinalis Peralta ubi
supra Antonius Faber rationales et de erroribus
Pragmaticorum decade 27. error 1. n. 9 et sequentibus
29

n. 29 Rationes utriusque sententiae aliqui
ex antiquioribus quorum o-
piniones refert Peralta d. n. 200. in fine
existimant quod unica fictione heres et here-
ditas repraesentant personam defuncti et quod licet
dicantur duae repraesentationes personae defuncti
una hereditatis quam appellant repraesentatio-
nem per modum alia heredis quam vocant conse-
quutivam et per posteriorem inefficacitamen unica
sit repraesentatio quia secunda adita hereditate
absorbeat primam ita Peralta ubi sup. n. 200

n. 30 Alii existimant he-
reditatem et heredem do-
minos esse et defuncti personam repraesenta-
re verum id fieri duabus fictionibus ex
necessitate a lege introductis ut hereditas et he-
res a die mortis patris familias decursus suc-
cessione tractant eius personam repraesentent
hanc opinionem sequitur Antonius Faber

Contra rationem 3ª Pagina 50 et stando cum
placienda quas ut intelligas animadvertes
post mortem patris familias hereditatem repre-
sentare personam ipsius et pro domina haberi
et tamdiu manere domina quamdiu nullus
heres est. itaque fictione iuris introducta ut
diximus sup. n. 26 · hanc dicimus 1ª fictionem
verum quod heres institutus adivat hereditatem
et hac aditione sit patrimonium heredis et de-
sinit esse hereditas ex eo quod dominus est
vera persona est per quam facilius et comodius
representatur persona defuncti et regulare
est in fictionibus a iure introductis utque ad
comodum non nisi ex necessitate inducuntur ne
necessitate cessante cessarent ea ratione cessante
cessare necesse fuit herede adeunte ius et nomen
fictionis hereditatis sedque et nomine cessa-
nte fictione illa sublata, bona here-
ditaria sine domino fuisse videntur, et re-
liquit nullum sequenti adeundi potuisse, iura
et actiones defuncti interisse, sive malo
incurrere fuit necesse, ideo aliqua introducta
alia fictio qua coniungeretur instantia
mortis patris familias, et aditionis heredis
ut coniunguntur. l. g. cornelia. de captivis
instantia mortis et captivitatis, eius qui
capit.

anno 1574 defuncti studiis capitulatis, [illegible]
cum [illegible] morte, iuxta text. in l.
44 § ultimo cum similibus ff de usucapio-
nibus, ita fictione introducentes ut heres de-
functi adeat retro adire fingatur, a die mor-
tis, quo facto dominium defuncti ad heredem
sine ulla interruptione continuatur, ita ut
heres duarum fictionum beneficio [illegible]
[illegible], quod dicta [illegible] videri possint
[illegible] sine domino fuisse [illegible]
inde [illegible] nullius occupanti adquiri potuisse
videndus Antonius Faber coniecturarum
ubi melius explicavit quam decade 27
[illegible] et 10 ubi alias [illegible] ape-
ruit

n. 32 — Non obstat ratio contraria
[illegible] text. in l. 1 § heres
22 de usucapionibus, quia respondendum est non
tam una fictione fieri ut hereditas et heres
representent personam defuncti, sed etiam
formare iure consulti dicti hereditatem
[illegible], quae duas appellationes representant unius
personae vicem fungi; quod non contrarium
[illegible] quae dicimus funguntur enim vice unius
personae heres et hereditas, [illegible] hereditas
representat

representat personam defuncti et ipse representat
heres, verum aliud sit venire ipso intellectus
Covarruvias suspitionum quas sup. proposuimus.

Nº 32 Ob ipsi aliquis q. dantur

Persone defuncti Que Representationes uno eodemque tempore
representet duo domini insolidum hereditatis tempore
et heres. quod fieri posse negat in solidum lex sed contra
natura. Justaberti inst. in ut sententia § § sed ubi ius vigiliaria
26 § commodati de lq. de hereditate 29 § pater de cap
tivis sequitur lex quod contra 242 § uni duo ff. de re
gulis iuris videndus Antonius faber de erroribus
pragmaticorum decade 27 errore § ... se responde
tu poterit in dari insolidos duos dominos eodem tem
pore siquidem hereditas pro domina habetur inte
rim quod heres in adit adeunte vero herede hic pro
domino habetur, repraesentatur heres retro fingitur
adiisse a die mortis quo illo medio tempore quod ante
aditionem, alterum fictione iuris dantur duo do
mini insolidum et due representationes defuncti
sed responderis in argumentum procedere posse si
aditione hereditatis in sequente sive evanescente ius et
nomen hereditatis, sequitur causa evanescat et in locum
suspitionis succedat alia fictio quam in aliquo tem
pore fingat sed impossibilium quam retro fictione

C. leat nunc redeundo de re ad rem

Appellamus superatis ideo quod de hac re dicitur quae parti de castrensi peculio et alia iura adducta: ab Ant. Fabro. Unde quod hereditas ... de reditione hereditatis recedicamus. Verum retro finxi duo ... morti sed ... fictiones in concurrere eodem tempore ... retro fictiones post fictiones quae ... fingi ... illa ... eodem tempore ... dominos ... heredes est ... nomen hereditatis ... determinat ... ... eodem tempore representatione ... defuncti hereditatis et heredis

n.° 33

C. Manet ex his satis ... argumentis propositis sub n.° 22 ... consulta ... veritate ... fictione ... negotiis ... videbis Paulus castrense, ... quo ... heres ... Ant. Fabro ... et constat ... defuncti ... declaratione, tradita ... sub n.° 20

videlicet quod intelligatur succedere in his quae [illegible] iuris
[illegible] indiffinitione illud verbis
[illegible] quae iure facti et vera persona re
quirunt, ergo inferetur [illegible] interpretatione ad [illegible]
in [illegible] hereditatis. [illegible] directione hereditatis [illegible]
[illegible] ita [illegible] hereditas [illegible]
corpore iuris intellectu [illegible]
[illegible] iuris interpretes [illegible]
[illegible] ordinarios [illegible]
[illegible] Ant. faber [illegible] Richardus et alios
[illegible] relati ad nostrum [illegible] cap. [illegible] ann. 35 [illegible]
[illegible] alii interpretes [illegible]
nomen hereditas [illegible]
[illegible] agere [illegible]
[illegible] res incorporales quae in iure [illegible]
corpore [illegible]
[illegible] unico [illegible] incorporaliis [illegible]
rebus corporalibus et incorporalibus [illegible] longe differt
a corporalibus et rebus hereditariis [illegible] unico [illegible]
[illegible]
hereditati [illegible] rebus [illegible]
[illegible]
[illegible] quantitate [illegible]
[illegible]
[illegible] portione [illegible] ratione [illegible]

videndi. Cuiacium lib. C. [illegible] Papiniani inde
[illegible] hereditas [illegible] hereditatis [illegible] faber
inde [illegible] lib. 3 [illegible] hereditatis [illegible]
[illegible] possessionis [illegible] hereditatis [illegible] rei [illegible]
[illegible] de quo [illegible] illa verba [illegible] suspensionis
referenda sunt non ad [illegible] suspensionis heredis [illegible]
[illegible] quae [illegible] sub n. 26 sed ad hereditatem [illegible]
transferri verbum [illegible] ad hereditatem [illegible]
[illegible] ut [illegible] instituta [illegible] corporalibus
n. 34 —

Ut igitur [illegible] pareat he-
reditate [illegible] contineri
[illegible] Rerum corporalium [illegible]
[illegible] hereditarii ut [illegible]
[illegible] qui manumitti [illegible]
[illegible] significando [illegible] rei [illegible]
[illegible] usufructus a fruendo [illegible]
fruendi [illegible] de hereditate [illegible]
[illegible] hereditatis [illegible]
[illegible] intellectus [illegible]
[illegible] hereditas [illegible] hereditatis cor-
poralium [illegible] Perpetuum enim [illegible]
[illegible] Rem corporalem [illegible] videmus
[illegible] incorporales [illegible]

vne id qd videri habitoris quidq cum neque vi
dent neque tangi possint ideo recte scripsit Papi
nianus. da q hereditas. De restitutione hereditatis
qd hereditas sit [illegible] sine ullo corpore [illegible] semper
[illegible] apprehenditur [illegible] sive versan
tur in intellectu. itaque res imaginaria esse
[illegible] attendus Cujacius lib. 6 qs Papiniani
[illegible] hereditas [illegible] in notatis ad donellus
lib. commentariorum cap. [illegible] B [illegible]
[illegible] hereditas [illegible] sine [illegible]
hanc fictionem hereditatis neque [illegible] esse
reale cum non habeat fundamentum in re neque
[illegible] q [illegible] Peroperasionem in
[illegible] neque debeat fundamentum ullum in re,
resultant tamen ex hac fictione maximi
effectus [illegible] utilitatis ex eisdem [illegible]
in [illegible] jurisconsultis nostris [illegible]
[illegible] philosophis [illegible] lib. 6 de beneficiis cap. 5 ex
[illegible] manus [illegible] hereditate [illegible]
hereditarius ita scripsit Jurisconsultorum
[illegible] sunt acute qui hereditatem negant
[illegible] sola quae in hereditate sunt [illegible]
quae [illegible] quiddam sit hereditas quam ea quae
in hereditate sunt [illegible] magis [illegible]
[illegible] intellectus [illegible]
[illegible] scripsit [illegible] ad nostram [illegible]

et [illegible] concordant scribentes [illegible] Romanus [illegible]
commentariorum cap. [illegible] Petrus faber [illegible]
[illegible] Cornelius [illegible] com-
mentariorum cap. [illegible] 24 [illegible]
[illegible] significatione Richardus [illegible] n. 32
et communiter Doctores [illegible]
[illegible] traditas expositione [illegible]
[illegible] tractari solet [illegible]
[illegible] facere [illegible]
[illegible] resolutionem [illegible] contrahenda
[illegible] longius trac-
tari [illegible] de explicatione [illegible] verborum no-
stre [illegible] que [illegible] habuit
[illegible]

Secundo infertur ex
[illegible] existentibus
[illegible] quales [illegible] impotentie [illegible]
[illegible] et necessarius [illegible]
similes [illegible] de be-
neficiis [illegible] Richardus et
Cornelius [illegible] commentariorum cap. [illegible]
[illegible] in notatis.
[illegible] doctores communiter
[illegible] de libertis et [illegible] quarum [illegible]
[illegible] immiscet [illegible] hereditati [illegible] illo mundo

tempore

tempore hereditatis iacentis, neque necesse
requirere adquisitionem iuris, quia hereditas
iacens defuncti et eius personam representat
ita defendunt Accursius in l. 9. verbo lege
heredis cod. de petitione hered. Baldus ibi dicens
et alii plures quos refert et sequitur Antonius
Gomez 2 tomo variarum cap. 9 n. 27 Ricchardus
eo cap. 2 n. 23. Cornelius [illegible] 7 cap. 2 Ant.
faber [illegible] [illegible] [illegible] 2 pars [illegible] 2
Pagina 9 et Decianus [illegible] [illegible] decade
3. [illegible] [illegible] [illegible] [illegible]
cap. 2 littera P.

n. 36 — Ratio in eo consistit quod
[illegible] et nomine hereditatis
[illegible] ad introducendam possessionem [illegible]
[illegible] ut dominium quod habuit defunctus continuare
tur [illegible] in illo tempore seu ultimo [illegible]
[illegible] ut [illegible] supra n. 6.
[illegible] in possidere in suis bonis [illegible] ipso
iure post mortem patris heredes existunt
et heredes [illegible] existere [illegible]
ne 68. § 2 [illegible] [illegible] 9 [illegible] concurrit,
ut heredes existat et [illegible] legati sedat [illegible]
[illegible] cod. de [illegible] pro hereditate
[illegible] de nichil aliud [illegible] quam [illegible] heredes
sibi apparere quasi moriente patre nichil nobis contingat

nisi pro amentiae ... iam tunc cum pater
videret fuisse nisi domini rerum paternarum
... parentis vero illius ...
licet ... administrationes quas ...
... habebat ... matrimonii ...
... ... anno 6 ...
noster ... ... crimine
... consuetudine ... vero erga
filios ex quo fit et ex legis potestate filios
... heredes ... quidem ... testatore
... commissa causa ...
ut ... patre
quod admodo ... experimenter ... in
...
... qualitate et ... dominus ... mortem patris
... continuatur ... liberas admi
nistrationes morte patris consequi videantur
... ut constat ex ... allegatis ...
... ...
... Justiniano ... quae defendere
debemus ... ratione ...
... commentarionem ...
... dominius continuari ... et
... videntem patre ... ex
... possessione ... administramus ... ratione

ri huiusmodi regis introducere successiones hereditarij
juris hereditariis exsistentibus siquidem sine ea
nullum datur injuriam quo videatur bona pater
na huiusmodi munus et executori tenetur et commu
niones ex sigillatim sua exsistentibus juri
hereditarii ordinare hereditates vacantes
n.o 37. Ex hac resolutione
inferunt Doctores quod
sing. de statuto cabeatur quod in equalitate he
reditate solvatur gabela in solvet eas jus bonis
quae immisque Paterne hereditatis quod in dicto
alter nuba hereditates acquirere neque adire
quod ei additio in necessaria cum ipso jure hereditas
del iniunus 24 cuius et legitimis hereditatibus
immo potius dominium bonorum paternorum in
ipsos continuare dicimus Hanc opinionem de
fendunt Antonius gomez in l. 1 taurorum
cap. 9 n.o 28 et in l. 45 tauri n.o 55 et alij quos
refert et sequitur Gutierrez de tractatu Gabelae
hac quaest. 9 sub n.o 87 et sequentibus
Ex eadem resolutione inferunt
resolutionem alias practicabilem quod donati
vi eam quod Antonius Gomez d. cap. 9 n.o 27. Gutierrez

Lavissime tractarunt vide quod sui in n° 99 et plu
ribus sequentibus quorum omnino amplectenda est
valde etdaliorum sententia ex quibus omnibus elicis
te nobis sub herede intelligi quovis heredem ratione
non interveniat filius. Declarat amplius ulterius
mittere et abstinere a paterna hereditate in
deliget intra tempora deliberandi dummodo
res animas et sortas propria loquendo intelligi
quovis heredem cui oneris here
dibus videtur hereditas cum eius sed dare cum
sumptis vonis ut animat bene antonius Faber
de decade 3ª errore 2º

n° 38 — Fertio subinferunt ex ea

de resolutione Plures doc
tores sub heredes non possunt usucapere titulo pro he
rede Rem alienam inventam in hereditate
quia cum videtur hereditas sumptis heredibus videtur
est. Pro herede ad locale garsia cons. C. de [illegible]
[illegible] sequendo Cod. de usucapione pro herede
quem dixit textus hoc semper acquirunt et in tempore
tanti. Coquelis lib. 5. commentariorum cap. 4
et alios quos refert Algerius adi in notatis [illegible]

et Pluri Laudati. Aquittanij Lud. q. sui n. 78

... bene intellectu in commenta ... trueris

namque est suis heredibus posse ... renallena

in ... hereditate ... pro herede ... de

fendit multis argumentis adversus aquit ... ubi

sup. n. 82 Antonius faber de erroribus pragmati

corum decade 32 error 5 n. 8 et sequentibus

neque obstat textus ... 9 ... suis

heredibus existentibus nichil ... pro herede

ayucatione ... posse intelligendum est ... suis

heredibus existentibus aliis ... nichil posse

ayucatione adquirere ... pro herede ex pater

na hereditate ... paternorum ...

in filios continuatur morte patris ... de

in ... pro herede

n. 89 ... Neque his que dixi ...

... filius

ff pro herede ex quo probari videtur filium

nichil posse ayucatione adquirere ... pro

herede ... satis ... alegantur

... Laudat. ... Quid

... Laudat. ubi sup. ... antonius

habetur decis. 32 tomo 2° et ipsius inter
pretatione decis. 42 eiusdem 2° et per totum quod
aute dicendum quod filius heres seabstinens quatenus
ina hereditate ut abstinere non potest iuxta textum
inde § sui constituta de heredum qualitate
[illegible] 57 cum similibus hoc nostro et ut
videtur firmat hac quod eundem antonium fabrum
decis. 32 eiusdem 2° ubi dicebat exemple
sia extra remanet distinguendum esse inter
eum casum quo filius exstitit et extat heres ideo
quo tunc ut heres necessarius quod paterna hereditate
[illegible] et eum casum quo ex iuribus heres sit
nec extat ut se abstineat in eum extraneo herede
ut se abstinere iuxta textum [illegible] cum patronum 22
§ 2 [illegible] liber [illegible] textus cum
[illegible] 29 eodem et evidenter domelius lib. 2
commentariorum cap. 28 [illegible] et [illegible]
[illegible] Riviera Et in eum posuimus omnia
de hanc re expectantia [illegible]
atinam [illegible] atque plura quod ante [illegible]
[illegible]

N° 40 Superiori [illegible] dubitatione
recte deducitur ex
a ratione de qua sup. n° 39 sectum quatenus

dicis mes dominium continuari in suis he-
redes, nisi a quibus ait dicti continuari ista
possessione utrumaverunt ... ex ante quo ...
... quos referunt ... in notatis ad
Cornelium ... commentariorum cap. ... ceteram
C. Gutierrez ... nº 66 ...
... glossa ... ratione ... ibi
Gutierrez ... nº 69 ... heredes
continuare possessiones ... continuari in he-
redes extraneos ... heredes ... qui
... possessione quae ... communis ... et
sequitur Cujacius ... de liberis et posthu-
mis ... quos refert ...
... referit ...
... nº 66 verbo sed contrarium

nº 42 — Vera igitur ... est in dari ra-
... in suis heredibus sed ...
... heredibus ... heredibus ... ut constat
ex lege ... verbo ...
... nº 42 ... sequenti ... hereditate ...
... nº 97 ...
... communibus ...
...
... familiae ... et multis
aliis ...

nº 42 — sed a firmatur

nº 42 — Sed affirmandum

hereditates quatenus

[illegible] possessione Juris sui cedit defuncto ut dixi

ominus sub nº 26 in dicta existentibus sui here

dibus ... ad eorum ... et ut nec ... illo instanti

... hereditatis ... presenten

... proprio loquendo ... hereditatis

illo instanti ... hereditatibus ... vidend ...

... faber ... in principio ... omnis ...

... de actione ... paginas ... gratuitis ...

... decidetur ... ubi ... improbat ...

... defunctus ... hereditatibus ...

et instans delate ... hereditatis

et ... in lege ... Cod. de jure delibe

randi ... imperatoris ... allegari

... delata ... hereditatis ... improprie

loquuntur ... melius ... propter

precepta imperatoris ad communem usum loquuntur

... quod delata hereditas ... instanti

quo ... existit ... heres

nº 43. Nec in contrarium

obstant Jura alegata

sub nº 42 a respondendum est hoc nomen he

reditas ... acquirit ...

... quatenus ... defuncto ... persona

representat et pro domina habetur nº 26 — qua
exceptione dictum est in dari ullam hereditatem suis he-
redibus existentibus qª tunc in esse negata fictio
cum in ipsos amorte patris dominium continuetur
et videatur quodammodo dominium [illegible] ut dic-
simus sup.

nº 44 — Secundo hoc nomen hereditas
communi et usitato loquendi
usu accipitur pro universitate patrimonii quod fuit de-
functi et pro quarumcumque rebus a defuncto relictis quos in
supremo [illegible] sub § l. 9 dicit heredad es todas las
cosas que morir alguno adquiere [illegible]
venimus recolimus hanc deffinitionem supra
nº 2 et 22 in principio habuimus numerum 3
q. voluit supero deffinire hereditatem prout l. persona
ficta et ea deffinitione recte fit — eodem sensu et
extrinsecus [illegible] videntur hoc nomen hereditas
conditores legum practicarum ut constat ex l. 8 tit. 33
Partida 7 ibi otrosi e resgual la heredad e los
bienes e los derechos de alguno finado sacando
ende las debdas que debia e las cosas que fallaren
agenas.

nº 45 — Et eodem sensu Proximi
veritate [illegible]
hereditatis accipitur nomen hereditatis [illegible] l. 9 [illegible]
celeberrimus et [illegible] hereditas

fuisse

feuse ut ibi in hereditate pertinere videntur etiamque fideicommissum quo ibi quae dicat ab ibi ille maiorem partem hereditatis ut ibi ubi maior pars est hereditatis ff de iudiciis et multis aliis locis ut constat ex ttº ff et cap de petitione hereditatis et ex ttº ff et cap. ~~de petitione hereditatis ex ttº ff~~ et cap ad trebellianum ita de primus ad quem hereditate ubi universitate bonorum nam si ad quem ratione hereditatis referas ad hereditatem prout persona ficta desumes Tiraquell principium ex quo constat aditione hereditatis evanescere nomen hereditatis et bona hereditaria fieri patrimonium heredis quae in dicta Co de heredum qualitate n° 46.

Ut et aliquis quaerat ratione communis ipsius aliquibus hereditate. Pro universitate bonorum si hereditatis hereditarium et Respondeo hos agelasse hereditatem ea bona quae aliquo fuerunt hereditatis ante specta, et post originem et eo quod fuit et post aditione hereditatis ille desierit facta patrimonium heredis nec retinuisse adhuc antiquum nomen hereditatis ita antonius faber in suis iurisprudentia ttº 6 principio que ratione et conclusione eius Ant. Faber 3º tomo rationalium ad l. 3 eius quibus provincia qui

Verbo quoque de q. capi. litera K. ff. de verb. signif.

n.° 47 — Eadem ratione pro universitate honorum reversuri hereditarii acquiri, hoc nomine hereditas in iuribus allegatis sup. n.° 41 et multis pluribus et ita nobis videbunt y que diximus videlicet ex his verbis hereditas ... hereditas prout a persona facta qua defuncto ... persona representat ... iuris subtilitate inspecta, licet nimis ... communi usu loquendi hereditas aliqua ... in his hereditibus ... ita ut ... in extraneis ... bona propria ... largius ... in edicto ... de bonis damnatorum ... tam dominus ... liberiores ... paternarum admi nistratione ... morte patris ... Antonius faber in suis ... in principio ... 3.ª et ... 3.ª ... hereditatis ... verbis ... erit proximus ... familiae ... —

n.° 48 — Communis igitur et regia opinio amplectenda ...

Dum hereditas [illegible] suis heredibus existen-
tibus generaliter tradunt doctores et inex-
plicant hanc [illegible] filius suus heres instituitur a pa-
tre sub conditione que sit in eius potestate antequam
id impleat conditionem dum hereditas [illegible] con-
stat enim quod licet filius in potestate debeat institui
aut exheredari nominatim [illegible] nullum sit [illegible]
[illegible] interpretatio. Deliberandum [illegible] cum homi-
[illegible] institui potest sub conditione que sit
in eius potestate et que sit facilis impletu. et quia
[illegible] possit filius [illegible] implere [illegible] unde
sic quoque ff. de heredibus instituendis l. ultima
de conditionibus institutionum [illegible] in
filii potestate l. q. de institutionibus et substitutio-
nibus [illegible] potestatiua [illegible]
[illegible] in filii potestate quecumque com-
muniter [illegible] contrarium [illegible] potest
enim filius institui sub conditione dandi Deinde
ut constat ead. l. q. de heredibus instituendis d. l.
ultima de conditionibus et tamen hanc con-
ditionem [illegible] apparet [illegible] traditur
quod cum similibus de conditionibus et demonstra-
tionibus [illegible] que sub conditione [illegible] mor-
[illegible] de conditionibus l. [illegible]

modo, ut habendus sit [illegible] cum hominibus de
legatis [illegible] caveret ex eo [illegible] ad suos heredes.
In nomine conditionis necesse esse dari aliquos
hereditarios, qui defuncti sustineant et ipsius per-
sonam representent in re aliqua eo tempore quo fuit
inter mortem patris familias et implementum con-
ditionis videantur, nam a defuncti in aliis fuisse aut
provenit [illegible] adquirendi potuisse.

n° 49 — Hoc ut explicemus
affirmandum est verum esse

quod diximus, videlicet suos et necessarios
heredes posse institui sub conditione quae sit in
eorum potestate, ut supra diximus, qui tamen in-
stitui non potuerant sub conditione casuali seu quae
non sit in eorum potestate, erit namque nullus [illegible]
tali conditione apposita [illegible] [illegible] [illegible]
[illegible] sub omni conditione institui potest de
heredibus instituendis, ut supra n° 4, cum similibus
casibus de institutionibus [illegible] [illegible] [illegible]
defectum [illegible] conditionis vel [illegible] ex
[illegible] ordinandis ordinariis [illegible] ut supra
n° 99 et sequentibus, ubi de interpretatione
[illegible] filius a patre, n° 28 de liberis et postumis

Decimus via contemplatione commendatione de
eis [illegible] antecessores ad l. 3. § pure de
[illegible] et postumis [illegible] faber [illegible] cor-
rectoriarum [illegible] [illegible] ratione [illegible] e
emendabit [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] affirmare aude-
mus [illegible] [illegible] heredibus [illegible] sub
conditione quae sit in eorum potestate exemplo
[illegible] fideicommissum [illegible] capitolium
ascenderit [illegible] manumiserit [illegible] similibus
[illegible] dari alliqua hereditate [illegible]
ma ficta a iure quae defuncto succedat [illegible] per-
sonam Representat [illegible] heres [illegible]
[illegible] conditionem [illegible] medio
[illegible] videantur bona defuncti [illegible]

n° 50 — intervallo la mobeor

Rex [illegible]

Et [illegible] heredibus [illegible] illa condi-
tione [illegible] capitolium ascende-
rit et similibus conditionibus quae sunt in
eorum potestate perinde [illegible]
[illegible] illa conditione [illegible]
ut constat ex textu in [illegible] [illegible] 55
[illegible] [illegible] [illegible]

5

conditionibus que in ipsorum sunt potestate et tit. C. de heredibus instituendis sed hic l. et q. dicit hec conditio absolute apposita extraneis here dibus nihil operetur eodemmodo exprimitur ac si inest tacite institutioni sua non autem suis et necessa riis heredibus multum operatur q. ex necessariis facit voluntarios heredes l. cornelius §. dalgiam Cuiacius lib. 8 §. de heredibus instituendis § ver ba in de conditionibus institutionum q. in magis mandum est de conditione arbitraria vel de aqua est in arbitrio et potestate filij an conditioni parere velit sin. ac prorsus de est affirmandum esse conditione apposita suos et necessarios heredes ex ne cessariis fieri voluntarios. Hec consequentia oritur quia quod legitima est probatur ex l. quia, de Urbani §. de verbo sed et ceteris conditionibus et probatur ab ant. fabro Coniecturis graue matricorum decade 1. errore 8 n.o 8 ubi reprehendit Bar tolum existimantes apposita conditione arbitra ria non fieri heredes ex necessariis voluntarios et decade 32 errore 6. n.o 12. ex quo constat veram esse doctrinam ambobus traditam siquidem ex necessariis heredibus effici voluntarios affirmamus, cum illi ipso iure heredes post mortem patris neque

antequam impleatur conditionem et ex eo cum
dominus in continuetur in ipsos status mortuo
patre necesse est recurrere ad suorum successionem
et dari hereditatem quae antea defuncto successit
et ipsius personam Representet

N. 5 — Obijcet aliquis contra
hanc sententiam et dicet
quando sui et necessarij heredes instituantur sub
conditione quae sit in eorum potestate manent sui
necessarij heredes et hoc probari intendat ex eo quod
licet extraneus heres sub conditione arbitraria
institutus conditionis implemento videatur adire
hereditatem immo nova aditio sit necessaria ut eam
de hereditate acquirat et ideo post impletam con
ditionem possit repudiare ut constat ex l. 2. §. 2. de
conditione causa data l. 2 in prima 65 § sed agere
de conditione indebiti l. ei qui 23 leis impubes
26. de conditione institutionis heres tamen
sui et necessarius statim ad conditionem impleto
sit ipso iure heres adeo ut postea a paterna
hereditate nequeat abstinere d. l. 2 dubitari
§ 2 d. l. conditionibus § de conditionibus et demon
strationibus quod semper sui heres manet ne
cessarius nec impedimento apposito conditionis
arbitrariae

n.° 52 — Superno n.° 66 obleyioni
facile satis fieret si nega
Remus differentias nullas constituendas
inter heredes suos et necessarios et heredes ex
traneos ut in constituenda existimat a
Cursius ind.a l.g. ras dubitari verbo ndedent mo
deri seritus in l.g. cas nomi. 86 hoc nostro tt.
quas sententias acursio laudato sequitur elige
ans in notatis ad donelus lib. 7 commenta
rio rum cap. 8 litera. M. Fidg.a nos fatemur ve
ras lle differentias assignatas sup. n.° proxime
antecedenti inter suos et necessarios heredes et
heredes extraneos quas istas differentias ac
noscant preter antiquiores Cussacius ind.a l.g.
l. ambulatari de heredibus instituendis ubi
respondent ad tex. ind.a l.g. Cas nomi 8.7 hoc
nostro tt.° adducens ab acursio idem Cussacius
lib. 2 30 De Gestoni Justiniani ind.a ge eque

Juliani

de conditionibus instituionis Anton. fab. deero
nib. Pragmaticorum decade 32 error 8 n.° 4 et 5
tomo crato mali de dictas l.g. 2 § 2 de con
ditione causada ubi late scripsit et res
pondet ad tex. qui in contrarium l. afferebant
hoderni ind.g. antiquus 62 hoc nostro tt.° quare
aliter cogimur Respondere

nº 53 — Disimus igitur appositam conditionem arbitrariam institutioni sui et necessarii heredis velut filii in potestate, fieri in [sic] ex necessario heredis voluntarium, id manere adhuc suum heredem suum necessitate sublata, ut recte animadvertit Ant. Fab. D. decade 3 error 3 nº 9 dicta aliquam quae effectus resultant ex superiori doctrina, et in primis quod filius qui suus heres manserit impleat conditionem, et nunc repudiare heres fiat ita ut amplius imponi non possit, ad sustinere a paterna hereditate quae gravior filius liberabit filios ob onerandum ex ponte suppositis statutis in illis filiis ex eis hominibus, ff de vulgari et pupil. sponte impleverit conditionem. 2º Resultare ex supra dicta doctrina quod cum fiet heres procedat ex eo quod factore testatoris, cum filius suus, quiquis erat heredis necessarius, quia sibi debet habere nolit heres est et inde necessarii heredis iuncta capite ut colligitur ex § 2 instituta de her. quali et differ. apposita conditione arbitrariam filius qui manet heres necessarius acquirendi statim post mortem patris, ut sit heres, ut solvere ante quam impleat conditionem, acquirit consequens inde [...] ita minuto filius necesse est aliqua hereditatem dari quasi me[...]

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immediato tempore deficeret succedat eis ad dominia habeatur.

nº 54 Tertio infertur ex diis quae diximus supra nullus dari haereditatem, ut ne persona sit ex quo servus proprius testatoris, et fuit institutus haeres expresse libertate data, et simpliciter fuerit institutus haeres libertate neque data neque adempta, quoniam ultimo casu liber et haeres erit per constitutionem Justiniani de qua in ... est ... necessarius perlibus haeredibus instituendis, quorum varias dissensiones ab impugnationibus Antecessorum amicorum prudentia ... principio ... si ... duabus sequentibus recte defendit ... in notatis ad Donellum lib. 6 commentariorum cap. 17 litera E.

nº 55 Ratio huius illationis consistit in eo quod liberthus a domino haeres institutus omnino ingrediatur post mortem domini liber et haeres sive vellit sive nollit, ut constat ex dicto § necessarius in institutione de haeredum qualitate, ideo necessarius haeres appellatur, ut scribit imperator, et quoniam haeredes illi qui proveniunt post mortem testatoris ipso iure

Beyng sit esias clausis tabulis ut ex gloss...
... d... cinquerm... ... fuerit ... ex
ap... ... exparte defendu... Cujasius tractatu 8.
...
... mobetur ... ex parte ... hoc
... et ... verba ...
elus qui improbi... rome reputatus erat ex que
verbis probari videbatur ... scribu
antequa... reputare ... videndi Donellus ad ...
cod... ... commentario
... cap ... Gobeanus lib 2 variarum lectio ...
cap 3 ... in notatis ... litera, ...
... effectu ... necessario ...
... nullus datur ... quo ... vona
hereditaria ... nullus et ita ... adqui
... consequens ... necesse in
... ... nomen he
reditatis ... Patet igitur ex 2 et 3 ratione
... et necessarius heredibus existentibus ...
... servis ... heredes necessarii nulla da
... hereditate ... persona ... que ... functo
... ... Regulam ...
... et necessarius ... ...

arbitraria ... et possidet ... in negandi hered.
... conditione institutatur ... illa conditione ... si voluerint ...
... voluntarios heredes ut diximus sup. fa ... no 90 ... ut ad reliqua ... et uno
... heredes ... necessarij ... heredes necessarij
... heredes ipso iure ... post mortem
... domini necesse ... hereditate
prout l. persona ... defuncto ...
alias videant bona hereditaria ... nullius
aliquo ...

no. 96 — Quarto ex ...
Ex his que diximus supra
... hereditate prout l. persona ...
... quandiu heres voluntarius prout ...
extraneus in ... aditione ...
... hereditatis ... et omne ... defunct.
... heredis patrimonium ...
... ex causa manumittere ... melior
... necessarium ... instituta ... heredis qualitate
... heredis bona ... procuratores ...
... filio ...
...

2a. ig. ne hasio 24 de nobasionibus loci quamvis
ante aditam hereditatem mentio sit illis verbis: interim
hereditas sub: nunc de quorum verborum interpre-
tatione tractamus sup. n. 24 ig finali in fine
cod. Cacin nostri loco tt. et aliis Iuribus exadictis
ab initio quorum supra n. 45 tamen n. 254 videndi
sequens quaest. coheredes § cum filie n. 149 de
vulgari Peralta in rubrica ff de heredibus
instituendis n. 137. et aliis plures Relata qua-
liter in casu quamvis factus sit persequuto omnino
servari Cabet n. 8 de pactis lib. 6 Angelus Carolus
ad nostram tt. cap. 2 n. 53. antonius faber de
erroribus decade 27 errore 2 n. 29 et decade 29 erro-
re 7 n. 24 et in suis prudentia tt. 6 primus prefatos
diffusione 3a et 5a et 2 tomo rasionales ad questiones
venit 20 § utique 3a de petitione hereditatis Pagi-
na 284 et 3o tomo rasionales ad d. legis. cuius
qui composito dicta versiculo quod remedia sibi qui ipsis
litera, C, et versiculo quoque quod Capu. litera

FC Super ius petatur
n. 57 —

Rasio huius dissionis
consistit in eo quod dicitur
supra n. 26 et n. 30 verum quia lex per
fictionem introduxit ius, et nomen hereditatis
ut defuncto succederet, et ipsius personam representaret

Ceterum quod regulariter C. in possessio nobis asserit
introductum esse, ante negociatie qua contrac
quidam sunt sicut ipse, et transeant conjugium
fuit heredi perque melius et commodius vero
dicta defuncti representatur accante eis et
nomine hereditatis heredit. et transeat et vera
hereditaria servata in nomine heredis quibus
semper futuris C. dominus
n° 58 Superior illatio etiam
de legenda est ut prosequat
quod hereditas fuit adita a vero herede aliter
si fuerit adiuvo ascripto herede quia eius adit heredi
adquireretur hereditas neque sic quod ante fuerat
delata injusta tolli, ante eius delata et devir
bonis hereditatis secundum fictione et nuper delata heredi
tas falso heredi sibi adeat hereditas pronon.
adita haberetur agnoscende quod hereditatis tibi ajecit
ipsa aliquo ex hereditate ipsa in eius possessione
minore venit in statis in eis venient eo
si et tertio petitione hereditatis rebus accusatoris
et Antonius faber et alii ex antiquo rebus.
n° 59 Buicellasio ne commoniter
obligatur hic in eius filius suam
1847 ad de sufficitur impermissio, utique
Michi· ... Michi extraneo heredem ...

... afferet multum extraneo fuerit institutus haeres ... hereditate ... patrimonio ... hereditate ... persona ficta, quae defuncto succedit et ipsius personam repraesentat

n.º 60

Circa textum ind. filius familias ... falcidia

Sese nobis offerebat casus late tractandi de interpretatione eius textus ... in communiter adducatur ... in nostra Rubrica ... difficultates patitur, sufficit nunc ... et remittere ad doctores ... tractantes ... interpretes ... filius familias ... filius familias ... patris sui codicillis rogabatur ut post mortem ... castrensis filio restitueret. et in eo casu.

quedratam amgater quartam deducere posset alii
putant magis quartam deducere qa videtur im
proposito hereditatem sed sequiturum utque affirmasse
Paulum iuris consultum constanter defendunt
alii existimant patrem posse deducere quar
tam legem responderet paulum indaig filius fam. ex
erdiunt ut videri licet apud Donellum lib 8 com
mentariorum cap. 27 quem sequitur iungenius in
in notatis littera F. Accursius et alii ante
quiores indaig filios familias Duarenus ad
leg. falcidiam cap. Cuiacius lib 22 qts. Pauli
indaig filius fam. videndus Antonius fab.
qui late tractabit de interpretatione illius
textus in iuris prudentia tit. 22 principio
illatione 15 per totam et illatione 6.

n° 62 Segundo dissyndysideor
ille tex ex eodem ulpia
nus 3 C 7 ejiciendi rationem proponebat ergo ver
siculo dum ait de casu responsique dio filio fam.
militie dicente cum ait sequitur contrarie
quasi hereditatem deferri heredi semoto filio
illesit extraneus sive Pater cum tamen
contrarium semper videatur Paulus iuris
consultus indaig filius ibi quam mihi placeret mutu

ex extraneo heredi instituto hered(itate) heredes adi-
tione eius, cum eiusdem castrensium ante here-
ditate [illegible] quas adeat heres consequens
ne heredes scripto patre deferri ibi castrense
peculium quasi hereditates, siquidem pater ea jadi-
re [illegible] habeat [illegible] castrense peculium
iure potestatis [illegible] ex quo est a [illegible]
[illegible] confirmari illi filii patre herede [illegible]
[illegible] necessaria l. aditio instatis [illegible]
de [illegible] servorum expendit ultimus
contra [illegible] filius fam. [illegible]
[illegible] pater [illegible] quasi hereditati de-
ferri de castrense peculio [illegible] castren-
se [illegible] hereditate [illegible] convenit in eadem
filius fam. adiri [illegible] ab extraneo herede
et deferri [illegible] pater [illegible]
delatio hereditatis [illegible] debeat aditionem insta-
[illegible] [illegible] de N. S. [illegible]
pater castrense peculium [illegible] ante aditionem [illegible]
hereditate.

n.° 62 — Tertio de [illegible]
[illegible] filius [illegible]

[illegible] hereditas post restitutionem
[illegible] ore [illegible]
[illegible] hereditatis [illegible] fideicommissum

+ 15

Iure antiquo inspecto . Iuxta tex. in l. sed a bene

Iure antiquo inspecto . Iuxta tex. in l. sed et bene de his qui sui vel alieni iuris instituta de fideicommissariis hereditatibus. sed hic l. quod peculium castrense additione fit hereditas quo ordine fit hereditas restitutionis impossibilis reputatur ille hereditas. Iuxta tex. in l. 19 in fideicommissaria. ibi quod fuit hereditatis ad trebellianum et est absurdum affirmare in eo impossibile eandem rem uno et eodem instanti incipere et desinere argumento leg. sero. 52. ff. de usufructu. et quod Plus est illud fieri uno eodem quod actu. viles difficultates pariter de lex salma. videas Ant. fab. in suo illustrationum annotatis ad Donellum lib. 7 commentariorum cap. 22 litera C.

No. 63 Ut liberrimus adificel.

tantibus propositis contra quartam illationem est dubitare quod licet filius fam. in eo quod est peculii castrensis uice patris fam. fungatur iuxta tex. in l. 2 ad macedonianum et l. 9 Proponebatur de castrense peculio. l. 9 si quis filio §. § ultimo de inofficioso testamento l. ultima quod territ... banus. l. penultima. Cod. de castrensi peculio libro 12 cum aliis Iuribus adductis a amendo de castro in l. 9 quod oportet 3 parte n. 48 cod. de donationibus Lib... Ant. fab. in suo conjecturarum ... in principio 6. illatione ... et causa ... lib. 27 ... Iustiniani ... 18.

de stipulatione servorum, et prosedet filius fam. utatur iure sibi conjesto quasi non fuerit postliminii cuiusdam similitudine retro fingitur Pater Dominus fuisse, et exemplo retinuisse domi-nium iure antiquo et postliminio, et ut eo iure, et vigebat antequam imperatoriis constitutionibus filius familias ornatae familias haberetur ipser ... 44 delegatis ... proponebatur ... nune ei convenisse ... filius fam ... infra ... de hereditate ... pater ... habebat, et ... antiquo iure et castrensi peculio ... filius fam. ... iure ... ultima ad tertiam ... animadvertit Pomponius ... consultius filius familias in castrensi peculio in habendo ... pro ... Antonius ... Principio Villasione ... castro ... ... filius familias ... dominus ... Pupilli castrensis ... n. 64 —

Segundo animadvertes y consequens ... filius fam. ... Quidquid ... peculio ... ad patrem ... iure ... de castrensi peculio filius familias iure antiquo ... habebat.

& heredes ab intestato qd postea in mortatur Ideo
eius circa bona ad decernenda ut constat ex aute
tica de heredibus ab intestato l. [illegible] § 2o
di[illegible] 9 ff. [illegible] cum similibus cod. l. com
munia de successionibus — Si de patre familias
intestato defuncto filiofam. milite hereditario
jure succedere nii peculium retinere contendit
Antonius gamus in q. 6 tauri. an. 2 — Si cum
filius fam. miles ti[illegible] heredem mei
instituit peculium castrense pro hereditate
habetur et quasi hereditas defertur heredi semper
sibe pater ille sive extraneus qualiter ibi pro
hereditate habetur de castrensi peculio leg. ita
veniunt ro[illegible] in solum eo de secessione hereditatis
[illegible] proprio rebatur in iamen erat proprie here
ditas qd peculium castrense indefinit ille donec
heres adeat illam quasi hereditatem instante
[illegible] in eo 33 de adquirendo rerum domi nio
de lo [illegible] 28 de stipulatione servorum
[illegible] proponebatur vel sequendo ge ita Premissis
[illegible] filius fam. 4. § 2 ibi [illegible] de castrensi
peculio

.n.o 65. — Ex supra pos[illegible] apparet
vera interpretatio
ad [illegible] [illegible] filius fam. ad qd fa[illegible]
quatenus [illegible] superioribus [illegible]
filius fa[illegible] [illegible] deberat [illegible]

conclusiones ad intestato facti Patris sui pedicon.
minit in peculium suum castrense. Ius in hoc rem
obtinere cui morte resuiniverit eum pater a
neatur illud pedicommissum restituere in parte
quia lex 3 ff de ff sicindus et delegatis 3o cujus
...multis sidendus donellus lib 7o commenta
riorum cap 5 et lib 8 cap 8 quaestio fuit temporis
in cam ... falsidia ex dicti ... constitutione
dictae pedicommissa ab intestato Relicta videas
Cujaciu ... Pauli ... filius fam. unde
a ... extensionibus legis falsidiae pater et suus
heredes restituto filio commisso possint deducere
et retinere ... falsidiam ex castrensi peculio
per fidei commissum relictam etiam hac specie Pa
ulus Juris consultus ut sua mens ... argumenta
prorogatiba et affirmatiba opinione ... pro
negativa ... ad ... sermone ... dicta
pro affirmativa ad eo ... in fine ...
de ... concludit Patrem et suos heredes deducere posse
... communiter inte ... ...
... praeter Cujaciu ultra alios antiquiores cas
trensis; et Alexander ... eadem lege et ...
...teris ... resiglendus quae quae donellus
et ... in contrarium Reclamant.
no 6 ... ... illa Proposita specie de
lege ... filius familias. videbis

ex hys quae diximus quod hic i... vera...
a ... ... mihi extraneo herede ins
tituto fieri ... aditione eius quae ver
bo ... negativa ... Paulus Juris
consultus et ... ...
... Paulus ... verba ... ...
intelligere aditione fieri ... prout l.
Persona ficta ... falsas ... ...
quas ... ... extraneus esset
... heres institutus a filio fam. ... in cas
trensi peculio ... peculium quasi ...
... ut diximus ... et aditione de
... peculium castrense et ... ...
Tarne ... ...
ne ... ... potestatis ...
... ... ut diximus sup.

nº 67 — Nec ex hys quae ex sup.
dictis verbis probari ... ...
tinctione aliqua inter extraneum ad ...
das et Pater fam. institutos ut ... Pu.
... ... Romo ... ...
S ... ... ad ... articulum Paulus Juris
consultus ... ...
... ... castrensi peculio et ... Juris con
sultus ... ... opinione Pauli qua
ut defendat ... aditione ... filius familias

intervenerat dicti ~~[illegible]~~ acquisitione extranei q.a est
in eo distinguendum inter patrem et extraneum ut acuto
Ant. Curatius videlicet et probatur expresse. Inde ignoro
[illegible] nec [illegible] obstat allegatus [illegible]
de leg. 28 [illegible] verbis. Sed in proposito neque
[illegible] q. meo iudicio facile satisfit si animadvertas
Patrem in specie illius tex. fuisse institutum et ideo
fuisse delatam ei illam quasi hereditatem ac proinde
adire potuisse ceterum extraneum institutum fuisse
ut constat ex litera et ideo in minus si aditione acquisi
cui [illegible] castrensem [illegible] hereditas hoc eo constat ex
eodem tex. [illegible] eadem verba. Sed in proposito neque
hereditatem ee. [illegible] in specie proposita quo filius fam.
a milites a [illegible] deficit —

n.o 68 —

Quare cum appareat in proposito nullam dari quasi hereditatem necesse fuit recurrere ad Rationem que assignatur in illis verbis siquidem quasi patris familiis bona. Restituere coditur qui verbis meo videntur quod
aliter ratio genuina quemadmodum Paulus Jurisconsultus nam ratio que traditur in illis verbis et heres sequens omissa ex [illegible] actione exemplo eorum legatorum nomine [illegible] que verba ad patrem referunt Cuiacius et antonius faber ubique non
[illegible] adaptatur ad [illegible] tex. que ratio tradita
sua. siquidem in specie tractata de patre qui non fuit
institutus et si in [illegible] ad [illegible] de patre instituto

et adire omittente neque est idem in iure, emo solitis ut Iurisprudentes more veterum quas rationes adducere ad unius articuli decisionem ut tractantes ... ita tamen 27. § a patre ad trebellianum tradunt Cuiacius lib. 22 quaest. Papiniani ... imperator 25 eodem tit. ex quibus forte beris ad Antonius Faber lib. 3° tractatu 29. q. 25 ... ratione et propositione -

n° 69. — Restat Respondere ad verba qualiter fratres heredes

Post restitutionem ... falcidiae ... continua ... proposita ... tractarem ... non constituto sed ad ... gravato Post mortem suam peculium castrense restituere ... Respondit Paulus ... beneficio habeat Pater quod falcidie et quod fructus totius peculii castrense sine ulla detractione restituet. fidei commissario ... transferuntur actiones utiles ex senatus consulto trebelliano idem illa verba Iuris consultus fratres heredes post restitutionem que ... ut fratres heredes quatenus ... sed ... per restitutionem desinat esse peculium castrense ... habere Iure hereditario effecto iam peculio fidei commissarii patrimonio et mutatione persona... mutata patrimonii qualitate ...

vnd.a q. Peregrinadore q. o s. 2. eo nostro tit. ut sic fiat heredit. tas qd ante nerat q.a cualitas patris n parebatur qd peculium castrense et hereditas incapacibus qd tamen pariter qualitas filii commitam quin l. pater ut recte animad vertit Allec sandro ind.a q. 2 8 n.o 9 in cuius animad versione inspicere videntur caque a alessandro in laudato tradit. ..... Gotte. 2. l. principio q. Masone s. a in fine qd si aliquis diceret cur spectamus restitutionem ut peculium castrense fiat hereditas respondet ..... fieri q. a pater in fuit institutus sed ab hereditate gratuity ideo nulla pro ..... qd si pater fuisset institutus ..... peculio et hereditate ..... spectaremus restitutionem fidei commissi co..... ..... facta fuisset hereditas

n. 70. Manet satis factum ex his que diximus ..... 18 ad lgis falcidiam et omnibus difficultatibus ..... sequentibus alias difficultates ..... incapacibus ..... Trebelliano ..... consulto ..... videbis ..... Paulli ind.a q. filius fami..... ..... 25 ..... Commissis s. ..... videbis .....

..... declaratio .... facte ..... castrense ....

Ratione suppositi quod impendimento de quibus in
habebat quod pater potuerit in[?] Pater retine-
bat ex fructibus quod et quod fructus — in praedicente
aliquis sint in transferentes in fidei commi-
ssarium actiones utiles ex trebelliano quid quae ma-
net actiones actiones. Oportet respondeatur quod Pa-
trem manere, idem de beneficiis quatri[?] ..., ubi
hoc difficultate careat — In praedicente aliquis
quomodo Pater potuit restituere dum vivit fidei
commissum et sunt translatae actiones in fidei com-
missarium ex trebelliano Jureconsulto siquidem fuit
pater rogatus restituere post mortem, eundem ante
non potuit restituere nec translatae sunt actiones in
Quenate Regula quibus sed si quis ff ad tre-
bellianum ibi quia non ita restituitur hereditas ut
testator rogavit et ratione text. in l. ... q. 2
item l. 2 ... Delegatis 3 cum similibus quae huiusmodi
... videtur contrariari cuius post mortem ...
cod. de fidei commissis — in Redistyle inqua
varias opiniones distinguitur ...
Pater et antiquiores et neoterici Respondeo
... potuisse Patrem restituere ... quod gra-
... restituere ... nec alius postea
vocatus fuit nunc enim quia non est ... illius
quod ... persona fidei commissarii ...
... constituti ... in ...

quomodo intelligendus l. tres §. ult. q. Post mortem
et transferuntur actiones ex testamento alicuius
agendus sine ... morte ... alia ... inserta
sit ... restitutioni fidei commissi ceterum quod
variari potest fidei commissi persona si rogatus
... restitui fidei commissum ... libe
ratur ... ... maioris ... quae ex
sententia baldi ita intelligit Antonius faber
... ... conjecturarum cap. ...

n.° 71 Constat ex sup. dictis
veram esse quartam illationem
quae habet hereditatis aditione ... nomen
hereditatis evanescere et fieri heredis patrimo-
nium contra quam illationem opponi ... solent
Iura adducta sup. n.° 45 ... ...
... ut respondimus sup. n.° 47 et sequentibus
ubi diximus bona quae fuerunt testatoris post
aditionem appellari hereditatem et eo sensu ... ...
intelligi ... hereditatis ceterum illud
animadvertendum quod ... ... hoc frequenter erat in
... ut testatur Jason. in ... n.° 238
institutionum ... ... adita he
reditate ante aprehensam possessionem ... ... here
ditariarum ... ... aditione hereditatis
contra possidentem ... possessionis ...

habeas qd erit nam plus apelabitur here
de inf. ut posit a here petitione ... et ...
ex l. 2 § 3 versiculo adijciendi de intendi
... etc. ... adijciendi versiculo dicitur ...
... tales fundamentis ... contra
dicant Doctores probant Ant. Gomez in
l. 45 tauri n. 26 Aragacelo et aliquos
refert ... in notatis ad Donellum lib. 9
commentariorum cap. 22 litera D. in fine
n.º 72

Ex Placarum ma-
net art. 24 usque ad
proximum antecedentis verbis succesio in di-
finitione hereditatis. reliqua diffinitionis
verba ... explicabimus veluti per indicem
monstrando ... temporis angustiis ... ceni
bamus pergit diffinitio et ut diximus sup. n.º 22 ... advertir
in diffinitione illa verba in universum ius etc. quia
succedit heres ... in illa res singulari, sed
in universum ius, quod habuit defunctus, et ... tan-
quam hereditas et heres a legatis et legatarius, a
... commissis et fidei commissarius. Particularibus
... universalibus legatarius enim et fidei commi-
sarius particulares ... universum
ius et ideo eos nautis successores ... universi
versalis apellabit Justinianus ita intelligendus

ius legatarii 12 ... reiterata de ... et q[a] n.
... hereditas in quae consistunt in facto
... persona requirunt ut ... sumus
adversus probato ... sup. n.o 20 ex quo principio
descendere diximus n.o 22. 24. qd cum possessio plurimus
... habeat ... denique .4.9. cum aliis ex quo
... maiorem hereditas quae est res quaedam incorporalis
quae intellectu percipitur ut diximus sup.
n.o 34 et q[a] caret animo quin ... est ad
possessionem ... de adquirenda possessione
... 253. ... cum similibus ... potest
possidere res hereditarias quae ... tradidit ...
consulto in ... se bola 25 ff. ... liber ...
... hereditati ... possessionis hereditarie ... et animo
n.o 73 — Huic Regule obicitur
... cum ... 30
ex quo maior ... q[a] possessio defuncti quasi ... descen-
dit ad heredem ... verbis probari videtur hereditatem
possidere siquidem omnia ... heres ab he-
reditate et ut ... non possidet ... heres
nisi apprehendat possessionem ... heres 23. de
adquirenda possessione
n.o 74 — Sequitur obicitur qd ...
... capiones

sine possessione possidere non posse l. 3 § ... si nemo
possessione 25 de usucapionibus cap. sine possessione 3
de regulis iuris in 6. et tamen usucapio coepta a de-
functo impletur iacente hereditate l. unquam 31
§ vacuus 5. l. coeptam 40 l. iusto 44 § 3 de usucapio-
nibus quod hereditas possidet.

n.º 75 Tertio opponitur quod ea ra-
tione non sit furtum hereditati
quia ipsa non possidet. ut constat ex d. § scevola in verbis
relatis supra n.º 72 in fine. sed hic est quod sit furtum he-
reditati. ut fuit sententia nerati iuris consulti
in l. ultima de crimine expilatae hereditatis
et probata ex d. l. 1 § 2 si is qui testamento liber esse iussus erit
ubi quia hereditati furtum fieri hoc est domino ex
§ citatis in quo eius legis verba ad sola furta ... quod
dicendum est. ex eo fecisse actionem furti contra ser-
vos qui furtum fecerunt domino d. l. 1 § 1 omnino
hoc est ad propositum d. l. 1 § hic actio eo non nascitur
in eos qui defuncti furti actione propter servi-
lutem hac actione substituit Praetor. Item simile
est in omnibus causis ex quibus furti agi potuit
si ... quo si liber est aliquam rem hereditatis sub-
ripiat furti actio competit et proinde necesse erit
fateri hereditatem possidere.

n.º 76 Ultimo impugnatur superior regula
ex eo quod saltem aliqua possessione
dari in hereditate necesse est ut constat ex text. in l. le-
gerit 8 § hoc nostro tit.

n.º 77

Nº 77. Ex quo obstantibus adueaffir
mandum est hereditatem in
Possidere ideo necesse est quod adue ut se non possideat
possessionem apprehendat quod gen[...] qui fasere not
vltima propria autoritate [...] Lauberit [...]
et loco laudat. [...] commentariorum cap. 20 litera
C. [...] ubi [...] quod 79 quod [...]
apprehenderit possessionem ea occatione quod vacabat
iudex decendum est ut restituatur possessio ex remedio
[...] cap. de edicto [...] apud nos ex lege
[...] lib. 4 recopilationum de qualitate [...]
[...] Parladorum lib. 2 rerum cotidianarum cap.
quod possessio [...] heredibus qui non possiderant ante
quam apprehendant possessionem quam [...] contrari
[...] ut [...] incontrarium
[...] ind. l. 30. [...] possessionem sed
usucapionem [...] quoniam alternis [...]
[...] confundantur argumento [...]
[...] verborum significatione [...]
[...] Gotofredus [...] lib. 2 [...]
[...] ind. l. 30 [...] causa ubi Gotofridus [...]
[...] quo interpretatio [...]
[...] hereditate [...] et plurimis [...] here
ditate adita [...]
Possessionem ad usucapionem nullius [...]

regulbari eodem servi agrippes verbum Possessio
eod. § deniq. eo ex qu. causis maiores ibi Placet inter
ruptam possessionem postliminio restitui et est interruptam
usucapionem ita Cuiacius et Gothofredus ubi sup. et
collector agente hac interpretatio caeterisque
ibi qua hac sine possessione non constat ut enim recte
Carondas animat benitus ludovicus Carondas ibi ingeste dic
isset Papinianus si scripsisset sine possessione non
constitit
n. 78 Non obstat 2. argumentum
adversus sup. n. 74 ex d. l. ceptam
qo cum similibus desuscapionibus dicta late tractantur
que sunt diversarum quae disputatione 2. personam
et alijs laudatis a Richardo ad nostrum textum can. 2. n.
et sequentibus quae omnes Pluribus suscipionibus res
Ponderanda est ceptam usucapionem a defuncto impleri
posse et hereditate iacente fadita hereditate
ante apprehensam possessionem quam venit et in possidere
usucapionis neque obstat quod impleatur usucapionem
illud utilitatis quam iure singularem constitutum est
ut ostat ex d. l. iusto 44. § 3. de usucapionibus
ibi hec iura singulari ration. et territorium est
singulare enim illud quod contra tenorem rationis
propter aliquam utilitatem auctoritate constituentium
introductum est ut his verbis ait Paulus
Iuris consultus in l. ius singulare 16. ff. de legibus

c. dedit ... in l. 23 ... Papinianus ... § 3° ubi de consignatione ... quatenus agit ... hereditarie ... nomine ... rabit ... 45 ... intelligit Papinius sententia ... antonius ... cessit ... interpretatione ... mixtura ... nouatus ad Cornelius ... commenta ... violenter verbis nihil ... nihil magis

n° 79. Nec obstat solutione ... causis ... ompleat ... hereditate ... Cicerone ... verus ... hereditate ... responden ... verba in habere ... hereditate adita compleatur ... hereditate ... possessione ... nece quis ita intelligenda sunt ... possessione ... hunc ... hereditate ... adita

55

iuxta tex. in 6 [illegible] [illegible] [illegible] [illegible]
ind. [illegible] § [illegible] [illegible] tenent 3a
[illegible] [illegible] [illegible] [illegible] 23 [illegible]
[illegible] [illegible] [illegible] et ex [illegible] 2c [illegible]
[illegible] [illegible] tradit Gregorius [illegible] in [illegible] [illegible]
gasta que se aprovada tt. 14 Partita 3 [illegible] laudat [illegible]
[illegible] [illegible] [illegible]

n. 8.a. Cuestiones [illegible] habet 3
argumentum adduetur [illegible] n. 5

mas [illegible] que dexamus [illegible] [illegible] hereditatem fuerit
[illegible] obstat [illegible] [illegible] [illegible] hereditatem
fuerit [illegible] [illegible] [illegible] 40 ibi [illegible] [illegible]
fuerit, [illegible] Genera[illegible] actionibus [illegible] hereditatem [illegible]
cum sequentibus [illegible] [illegible] [illegible] crimine
ne expilatae hereditatis [illegible] tt. 14 Partita 7 ibi
E comoquier que les non pueden demandar
por razon de furto ~~[illegible]~~ porque los [illegible]
en aquella sazon estando desamparados e non [illegible]
~~[illegible]~~ [illegible] ideo [illegible] subtracta ex hereditate
[illegible] [illegible] [illegible] sed qui [illegible] crimen ex
pilatae hereditatis committit, ut aparet ex tt. ff. et C. de
crimine expilatae hereditatis [illegible] Regia Partita
[illegible] e tal [illegible], como este dicen [illegible] crimen
expilatae hereditatis que quiere tanto decir como
pecado que [illegible] [illegible] en [illegible] heredad [illegible]

et com[m]unis eius doctrina extraordinaria ... ersetur in

... textu ... ff decrimine expilate he-

reditatis videndi Anty Gomes ... tomo varia ... cap. ...

... Carlo ... sententia ... casu 300

farinaceus ... laudati ... Carolo ... criminal...

tomo 2 ... 174 ...

n.° 81 — Vt quid hic ... animadvertes inter Iuris

Prudentes ... controversiam fuisse ...

... ex ... fuerunt ...

... Marcus ... ...

... contrariae opinionis ...

... consultat ... constat ex ... scholasti...

... epistola ... epistola 12 ad

... Cicero ... non ...

... nemini ... hereditas ...

agere posse ... antea ... ...

... quoniam opinio ... ... ut

constat ... allegatis ... quaestione ... fiat

... hereditati ... ...

Quaestionem ... Petes

n.° 82 ... fiat ...

... hereditati ... ... n.° 75 ...

... hereditati ... ... et ...

... ...

furtum in fact. ad [illegible] detur actio furti tamen quod furtum

est contrectatio fraudulosa rei alienae [illegible] in § ultimo

de furtis quod furtum [illegible] institutio [illegible] ex

delicto nascuntur quia legitur quod ex hereditatis [illegible]

quo ad fact. substantiam, ut tamen detur actio furti furtum fact.

ut Petrus gregorius lib. 37 syntagmatis cap. [illegible] sequitur

Richardus [illegible] furtum n.° 97. ideo largo modo

expilatio hereditatis furtum appellatur, ut tradit Antonius

gomes [illegible] tomo cap. [illegible] n.° [illegible] et furti improbitas

infamiam incurrere hereditatis expilatores scribit

imperator [illegible] 22 [illegible] ex quibus causis in

famia irrogatur et ea ratione tractare solent DD.

in poena imposita pro furto habeat locum in expi-

latoribus hereditatis § [illegible] Antonius Gomez Me-

neguius et farinacius [illegible] quo casu [illegible] illud

verbum furtum [illegible] § [illegible] et [illegible] instantia

n.° 83.

Difficilius est argumentum ex dicta lege

§ [illegible] actio [illegible] ut expendimus sup.

n.° 75. cui adiungas eandem legem [illegible] § [illegible] ibi posquam excrepsit

Ulpianus in dari actionem furti contra servum [illegible]

entem ex hereditate quod hereditas dominus [illegible] ea ratione

tradit dominus autem domina vero non possunt habere furti

actionem cum servo suo quod [illegible] liber fugeret et aliquid

ex hereditate subriperet, furti actio competeret

sed omissa communi solutione [illegible] difficultatis

[illegible] [illegible] argumentum a contrario sensu quod

resultat a bonis intellectus [illegible] [illegible]

Cod. de episcopis et clericis cum similibus respondendum
est regulare esse quod in casibus in quibus propter quali-
tatem persone alicuius furantis non datur, non datur actio furti
contra ipsum, neque etiam accusari posse crimine expilate he-
reditatis ut de uxore loquens scripsit Iuris consultus
in l. 1 ff. de crimine expilate hereditatis qua ratione
cum diximus contra eas personas furti actionem non com-
petere supponimus nec crimine expilate hereditatis
posse accusari unde Ulpianus Iuris consultus in d. l. 1
ff. et d. § 1 cum tractat de actione furti
que induci datur contra servum qui cum liber esse iussus est
in testamento aliquid subripuit et ex hereditate ante eius
cautionem et ex cui non dari hanc actionem natura
non possit equitate quam si ille carationem quod libere
[illegible] predominia habetur et adeo competat actio furti
et non competit dominio contra servum cod. § 1 [illegible]
l. 17 ff. de furtis l. 1 Cod. de nonnullis actionibus
cum similibus, necessario supponit dari ex actione
contra illum quod deficiente furti actione neque accusari
posse servus crimine expilate hereditatis quod sensisse
videtur Ursinus [illegible] ad [illegible] quibus Iuris consultus
exemplum constat ex probari in d. l. 1 § 1 et [illegible]
[illegible] esse et aliquid ex hereditate subripuisset furti actione
[illegible] tenebitur

nº 84 ... Ista Respondetur argumento adducto sup. nº 75 ad probandum hereditati furtum fieri quo probabat aliquis textus in quibus celebratur delictis contra heredem ante furtum agere posse, eoque constat ex glossa opinione relata Ubi 3º variarum cap. 8 respondebis tractari in eo textu defuncti facto vivente testatore in defuncto facto la(tente) hereditate quod est sentire videtur Aousius ... dict.

nº 85 Paret ex his quae diximus ... sententias existimare hereditati furtum inferri quod est probatur praeter iura adducta sup. nº 80 ... imprimis ... crimine expilatae hereditatis ... contra ... ultimo ... ratione ... ad motarum ... in eo ... quaerendo ... dominio ... eius qui ... defuncti ... animi ... quae ratione ... sententia ... in hunc locum ... in fine ... ca ... et explicanda ... ratione furti ... quae postea adjecimus ... semper ... omnium ... doctissimorum interpretum ingenia ... Bartolus ... hereditarie ... defuncti ... hereditas ... ratione ... Richardus ad notas ... cap. 2 nº 47. ... ... regula ... interpretationum

computasioneque nro alias tradite vbi eam bequus ad
tt. de furtis nº 20 bernardo a liene aute qua amplecti
videtur Richardo vnd. q. n. 57 de obligasionibus
que ex delicto nascuntur allas tradite A carpus in gerus
qui improbasia nº 25 fiser tu petatur alii quos refert
Richardo d. vago 2 nº 4 8 vbi improbat bane rasione
quas etias improbat chumasero ubi sup. nº 3. alias esse
res rationes videre poteris quod antiquiores intel-
lexerunt ad furtis remedium pene liz lib. de
Rectane cap. nº 7 et quibus latte tractabit eo in cap.
exindelecta. ttes indo et scebola

nº 56

Multis igitur Rationibus ex plebis frequentissime
Respondeo in scolis res ratio nempe qd cum furtum
ab auferendo dicatur iusta tex. in g. de furtis d. g.
instituta de obligasionibus que ex delicto, auferre aute
a poteres nisi et qui colidet tenet aut insistit rei et
illeo cum bagredituri neque possideat neque teneat neque in
sistat nec furtum essi fieri posse videndi fari nasius
et mul. stabeo laudati d. q. 74 tertia parte qd
improbuendo bane rationes literalis impro. bat et con
fundat Richardo d. cap. 2 nº 40 tarde amplectitur
ut constat ex numeris sequentibus. Prosimus fun
damentum vro bas opinione fundamentum ex d. q. 2 g. se
cola vbi scebola aut potestate furtum fieri denique dumillus

sit possessor sine ea negat fieri a iure aut heredita-
ti furtum, inferens quod possessionem hereditas non habet quae
facta est etiam nimis exaggeraverit probari contendunt
nullum fieri furtum nisi ab eius sit possessor cui negare
feratur deo furtum inferri hereditati quae iam possessionem pos-
sidet

n.° 87. Ego semper miror doctissimos
viros in re tam aperta
lapsos falsa nam furtum committi quam vis negaret
minime possideatur et nec possideatur ab eo cui ablata est pro-
batur l. et quia specialiter ex ipsius furti deffinitione
utcumque constat ex l. 1 § ultimo de furtis et as § 1
institutia de obligationibus quae ex delicto nascuntur
furtum nihil aliud est quam contrectatio fraudulosa
lucri faciendi gratia vel ipsius rei vel usus eius vel posses-
sionis [illegible] Richardo et alios laudatis § 1 in 1
ex qua deffinitione apparet nihil interesse ad hoc
ut furtum committatur animus dolosus lucrum faciendi
[illegible] animus usus tantum aut ipsa possessionis tan-
quam recte explicat doctor Cuiacius lib. 25 commenta-
riorum cap. 19 verba induxit satis ad furtum nego-
audiendi sunt qui ex ipsis ultimam illa verba, fraudulosa
[illegible] in deffinitione furti in lucro faciendi simpli-
citer usurpant sed ita et ipsius rei lucrata possessione
de iure tam in redicendum est ut contrectatione indigeat
[illegible] eius consilium [illegible] ipsius vel [illegible]

Iuxta posessione siquidem ex illorum sententia, sine possessionis furtum fit et satis exgressere si decreset furtum, ex contrectatione fraudulosam possessionis tantum, vero fallendi gratia

N.º 88 — Secundo Consequenter

Probatur, quod sine eo quod quis possideat in possessio aufferatur, ipsum furtum committitur, contra servitium priores principium est canon bus. Qui cum estimaret dominatione incidere ea bona quae in libertate relinquit iuxta expressione textus in 4 concilio 22 § facti cum similibus, de capitulis quod adeo bene, iter ut credo, ipsum ubi eo possessio restituatur iuxta textus in § 4. Cum glossis ac illis sequenti, ex causis maiores vanto aliis in illis illisquae praesentare ex 16. de usucapionibus et tamen si furtum fiat capitulo ipsum ubi eo ad possessionem competit, ut constat ex illis, sicuti quis 47. de furtis, quo in textu dicitur et cum possessionis potestate de furtum factum fuisse quod furtum fit et quam possideret non ne lo da ... —

Nec sane satis facies textis ponderare, sui textu prout respondent antecessores aliqui [illegible] de cap. 2 n.º 90 et sequenti. contra bane [illegible] interpretationem recte impugnat Chaimasen.

alibi signavi [illegible]

N.º 89 Tertio ad probatur ex eo quod servitium principium est vero modo [illegible] quando illam furtum fit tandem, contra possidere quandoque [illegible] quis tollat a superiora sunt. ita quod si bellum naturalem possessionem

-2-3

capiti dicemus quod verificat in generalibus possessionem in
animo asserit possessionem ad minimus ex sententia expertis
sequitibus iuxta textum in lege 3 § neratius ff. de acquirenda possessione Bartolus
in lege 23 § hinc mobilibus 47. cum similibus de ad-
quirenda possessione sed licet sed ~~forma est~~ quod si quis alio
quaesitum materiam faciat si quis sit dependitum possessio animo
maneret ut constat ex superioribus et ex illa quod non
ponimus etiam tamen licet quod invenit fur in animo manet
possessionem in animo detinendi iuxta textum in lege quaeratione
§ ultimo de acquirendo rerum dominio § ultimo
instituta de rerum divisione lege fa. 44 § quid dice-
mus 4 et § fructus 22 ff. de furtis Decius § unde in eius
consiliationi cum lege 2 § finali lege qui liberanda ad
legem Rhodiam de iactu et dicta lege quaeratione § ultimo
cum similibus credendi Pichardo in dicto § ultimo
instituta de rerum divisione Genia in consiliatione
lege ad dictam legem qui liberanda Paxana 234 in parte
Cornelius libro 4 commentariorum capitulo 23 in primis
Tadeo tacenti libro 2 non notatis quod committitur furtum
quamvis possessio non fuerit in potestate alicuius et designo
datur ex textu qui videtur satis obscurus in lege si 9 et 15
ff. de usufructu carnis ubi usufructuarius cui usufructus
servi legatus est dominus subreptus astio furti competit
quamvis servus ab herede numquam fuerit possessus
quae textus non sine ratione cum magistro ubi in suo notavit
vel quam non probat intelligendum communem adeo legem.

Sed de hoc non ferius
n° 9°

Quanto probatur ex eo quod servi furti [illegible]
quae sit commodatarius cum res aliqua fuit com
modata non possidere eam, cum proprietas et posse
ssio apud commodatarium maneat, ut ja text. in
l. in rei commodatae § cum similibus ff. commod
dati. Et tamen constat quod si [illegible] res aliqua, quam
ante commodaverit, postea desierit si interim
quod esset hereditas ab aliquo subtracta furtum com
mittitur, ut ex [illegible] hereditariae l. 68
ff. de furtis quod committitur furtum etiam si nemo
sit possessor. Confirmatur ulterius ex eo quod ed[illegible]
probatur, nam quod rei hereditariae furtum fiat
[illegible] l. quod cuiuque l. 69 ff. de furtis ubi Scaevola scri
bit rei hereditariae cuius usus fructus alienus
est furtum committi, et tamen constat nullum tunc
negativa possessores [illegible] quam [illegible] aliis in contra
[illegible] reclamant [illegible] est ex [illegible]
usus fructus non possidere rem ex qua usus fruc
tus debetur [illegible] ex l. 1 § generalis § de adquirenda
possessione l. 9 servus l. [illegible] ad exhibendum l. [illegible]
de precario § [illegible] autem verbo fructuarius [illegible]
[illegible] per quas personas nobis, cum similibus, videndum
[illegible] commentariorum cap. [illegible] in fine

in seruis dd. annotatis litera M et N° 31
ffarinac. vol. 9 naturaliter 22 Menochius de adipiscenda possessione
adq. & cont. lib. lib. 20 commentariorum cap. 7
in ipsius ibi litera C.

N. 92 Ita dicendum ... improbari
furtivi commodi quam ius [illegible]
possessor ad dictum Chiumasero [illegible] quod etiam a con
[illegible] et [illegible]. Plurimi casus [illegible] compre
hensi [illegible] in quo possidet [illegible]
[illegible] quam [illegible] dicimus igitur [illegible]
[illegible] quod ipso furtivi [illegible] possessor a [illegible]
defendit Chiumasero [illegible] cuius sententiam quo
ad hoc amplectendam est [illegible] audiendi sunt qui ex
[illegible] [illegible] aut dependita [illegible]
[illegible] dicimus possessionem [illegible] in furtiva
[illegible] quam dominium [illegible] et ille qui [illegible]
[illegible] adueniunt ad hoc. [illegible]
[illegible] 44 in fin. [illegible] reprasenti [illegible]
[illegible] domino qui longe [illegible] ad [illegible]
[illegible] quam [illegible] hoc interpretatio [illegible]
[illegible] necessitas facit [illegible] ad dictis
[illegible] Bergomius [illegible]
furtiua [illegible] domino contra eum qui [illegible]
[illegible] qui [illegible]
[illegible] constat ex [illegible]
[illegible] [illegible]

colligitur quod pietatis et quae consequuntur ... communis furandi furtum committitur ... ipso malitia intrinsece furtum fieri ratione rei ... suis propositionis et ... tantum intrinsece ... antecessores ... ad hoc ut furtum ... aliquid sufficere quod ... sufficere ... defectus

n. 92 Ex superioribus Comm.

Ratio tradita a ...

... nostris quas retulimus sup. n. 86 ... communiter rationes quare ... furtum ... data unde ... ratio ... defectus ... dato ... furtum ... dominium ... ut diximus sup. n. 5 ... rationes ... tradunt ... ut sup. n.

... quas ... communis ... furtum ... negat fieri ... tradita ...

... collatione ... sequuntur ... conclusio ... commentario ... furtum ... committitur ... et ... sup. 49 ... de furtis

et quidem fuerat sibi commendatio ni[?] fraudolosa [?]
dominio institutis in l. qui vas 48 § qui ex voluntate
eodem et aliquis dominus inesse est quando non in
telligatur [?] ipso quod non consentit quod cadere ipso
testamento [?] hereditate quia licet persona [?]
persona in habet et ideo et dominus neque velle neque nolle
intelligi potest [?] cum velle et nolle facti sunt
[?] leges [?] hoc nostro [?] legis et [?] de regulis
iuris l. voluntatis 7 [?] de fidei commissis et ea
que sunt facti in cadant [?] hereditate [?]
qua ratione fuerit [?] [?] hereditati [?] Anto
nius [?] [?] ad de [?] [?] ad hoc
[?] commendatio quod [?] aliqua persona cuius
[?] [?] [?] non velle
intelligatur ipso quod non consentit [?] videmus
[?] hereditate [?] [?] quod [?] aliqua
commendata ad [?] [?] [?] a [?]
quod [?] definitus [?] institutis in l.
hereditatem 86 cum duabus sequentibus de [?]
n° 93.

Super [?] Ratio [?] ne

§ [?] [?] contra [?] [?]
[?] n° 86 [?] [?] contra
[?] [?] [?]
fuerit [?]

furtum fieri ita quod sit necesse ad hoc ut furtum com-
mitatur dari alliquem possessorem contrarium enim hec opinio
ex his que vidimus etribui mee contradiceret cebola in
d. l. 69 ff de furtis semper furtum committi nullo possessore
dato videas que diximus sup. in go vers. quo confir-
matur ulterius – dices commodo igitur ille textus intelligen-
dus est et explosis variis interpretationibus et aequum tra-
dit antonius fab. ubi sup. et alia tradita a benedicto
pinelo lib. 2 selectarum cap. 9 n° 10 respondeo quod cum furtum
sit contrectatio fraudolosa lucri faciendi gratia su-
ius vel ipsius possessionis ut d. l. 1 § in l.
ultimo de furtis diximus sup. n° 87. ita sentire videtur
amus inaiquato quod cebola cebola ait possessionis furtum fieri
non qq verbis indoquit cebola solius possessionis furtum
fieri sed fieri possessionis quasi diceret ipsum sub lato
ipsius possessionis nulle furtum fieri quo supposito pro sequi-
tur iurisconsultus et scribit cum simillus posses-
sor furtum negat fieri quem verba intelligere debes
iuxta principium propositum nempe cum aget de contrec-
tatione fraudolosa possessionis nulle ullius vel nulle
contrectatione fraudolosa rei possessione de nulle sub
iungit iurisconsultus eodem themate recento utpote aute
hereditatis furtum non fieri intelligas non fieri furtum pos-
sessionis alicuius vel hereditate et ratione illius
quia possessionem hereditatis habet quem facti est tam-
men unde possessio vel auferri non potest quo sensu scripsit dic-
tus § cebola . chumasero ubi sup. d. disputatione 9

n.° 24 ubi scribit recte posse colligi hanc inter pre-
latione ex quo hec actio et quod preterea eius de legis ra-
tione in illis egisset an solus dominii aut Iuris realis ra-
tione esset condenda ratio actio pretoria de qua in ea-
dem consequens erat ut proponeret an respectu nude pos-
sessionis ea actio illa accommodanda esset Ut supra
nos ind. Sc(a)ebola prosequitur Cremaschio ibidem

n.° 94 Si dixerit aliquis cur
Scebola Iuris consultus
cum agit de hereditaria subrepta ea non nisi
rationem traditam a nobis sup. n.° 92 Respondebis illas
rationes assignatas a nobis ibi esse principales et ge-
nerales omnes casus comprehendentes illas rationes
cum in fiat furtum hereditati Severus Caius inde que Sce-
bola tractat de furto quod fit solius possessionis nude
intuitu preter generales illas rationes convenit
illa peculiaris sibi specialis quare eo in casu non furtum
hereditati ea videlicet quod hereditas non possideat et ideo
omissa generali ratione hanc specialem assignavit
Scebola in tamen ex eo negat quin et illa generali
ei possit accommodari ita respondere poteris et
cum nullus habeamus eius hic ea hunc articulum veg-
legis insistamus ne hoc videatur aberrat a te alienus
expendo textus in d. l. ultima de communi servitut
hereditatum ubi non hereditarie furtum non fit quod nec
usque sine domino est ubi Iuris consultus rationem
eam rationem quod hereditas non possideat sed dicere

veluti eius que sine domina esset et sine domino
que fieri non potest furtum ut intelligit accursius ibi etiam
glossa in d. § zebola verbo furtum fieri. et quemadmodum
te legalis que verba erant interpretanda ex glossa
interpretatione tradita a benedicto pinelo libro 2 cap.
n.o 8 ex qua animadvertes quod si agatur de furto non
de possessionis sedere surrepta hereditati dum quereretur
nec hereditari furtum fiat erit necesse requirere ad
gare vel rationem traditam n.o 92

n.o 95 Manet satis factum dictum
§ si zebola et agaret lazo
hoc ut furtum fiat in eo necesse quod tempore furti facti
sit aliquis possessor restituere sed sufficere quod sit aliquis
dominus vel si possideat si teneat liber... ...
sit persona cui fiat si cuius intersit quoquo modo
rem non fuisse subreptam tunc enim furtum esse dabitur
iuxta legem cuius 2o § de furtis diximus supra n.o 87 et
n.o 92 infra. fatemur tamen quod ubi furtum fiat ...
ratione fuit hic in interverterit dominium quia furtum
non modus legitimus adquirendi dominii ut quod
nostrum est sine facto nostro ad alium non transfertur
iuxta regulam legis id quod nostrum 12 cum similibus ...
... videndus Ant. fab ... secundo ratione
furti... interverterit ... possessionem ...
Ant. faber ... arborib. 12 § ... 5 ...
... et ... in ... secundo ratione furtiva
... ex eo necesse est quod ... cui furtum fit ...

cum si agamus de furto possessionis nudae quo in casu
licet in furem possessio competat actio furti tamen contra-
catur ut est persona cuius furtum fieri potest, apparet
ergo furtum non fieri hereditati et qua ratione quod
tamen limitabis et dicis furtum fieri rei heredita-
riae in speciali lege cum qui 24 § 24 et in l. heredita-
riae cum sequentibus ff de furtis — Severus admissa
superiori opinione et ratione cum non pat furtum
hereditati manet ingens scrupulus extra inda l.
contra d. § ultimo de actione rerum amotarum
ubi quod rei hereditariae non dum possessae non fit furtum ex d.
l. 2 § 2 de crimine expilatae hereditatis apparet autem
ex expilatae hereditatis crimen ex eo capite intendi posse
ergo veniunt illis verbis, post aditam antequam apprehen-
dere posse sunt ... in hunc casum furti actionem compe-
tere heredi ante apprehensam possessionem rei here-
ditariae aliquando subrationem non posse videtur ratio
assignata ... si quidem heres fit dominus aditione
hereditatis d. l. cum heres cum similibus de adquirenda
possessione ut tamen est vera persona quae vele et nolle
habet et quo invito furtum fit augetur difficultas ex
eo quod contrarium nempe rei hereditariae furtum fieri
post aditam hereditatem ante apprehensam possessionem
probari videtur l. ex l. de his cod. de furtis l. ex
d. l. si h. 35 ff de usucapionibus adductas supra n. 59
ubi ... ex quo textu apparet fructuario competere
furti actionem ante quam se perveniunt fructus usufructua-
rii 34 et heredi ergo competere furti actionem ante
quam ipse possessionem apprehendat.

n° 96 Superior difficultas ex
Ca° 96. § ultimo de actione
Rerum amotarum et dict. g. 2 § 2° decimo nomine spoliatae
hereditatis in latius c. Juanes de chumasero de Expo-
latione 4 n° 25 cuius opinio inassignanda ratione
curam in hereditate non fiat furtum licet magis proba-
bilius credamus eam quam tradidimus d. n° 92 versione
in dissputandi ratione ipsam defendi posset et adhuc expen-
di potuisset tres erundem g. eas quas catorze, § si neq. com mo-
data 14 de furtis ubi bonis hereditatis furtum factum
non acquiratur tamen aliis cuius interest acquiritur ~
in hac igitur difficultate ex glossa opinione Juanes
antiquis glossographi quem sequi videtur Accursius in
Ca° 93. existimantis tam in primo casu quam in
secundo de leg. heredi competere furti actionem
quam opinio ratiocinat licere tres et adeo merito
eam improbarunt Cumanus et alii ibi per eadem
interpretatio tradita a chumasero ubi supra quinta
difficultati satis fit scribentis heredem dominium
accipere ab hereditate iustatis uni legatis de
collegatis 2 acquirendo cum transmitto debeat servi
cuiusdem quia legatur hoc iusta tres uni quem
ver. 24 § quum in meleto ff de locati eo iure et modo quo
ipsam hereditatem dominium extabat ante et apud
heredem unde cum in hereditate refugit domini nu-
meri ut produxere furti actionem neque enim est
causa translatus ad heredem donec ipse possessionem agere deneat

N.º 97. Superior Ratio usq̃ proea

expendit post textum d.º §.

Rebola ibi q.ª hereditasque tantum, in eis transfundi ... sue hereditatis alicui dura videbitur quare explosa alia ratione quam tradit Benedictus ... lib. 2 cap. n. 27 inveniat quid aliud meliora afferat, inquirenti cur heredi non sit adita hereditate, antequam ... nec ... actione, furti actio in competat ... sed ... legislatoribus illud semper summopere fuit ... ut ex Angelo ad ... Ant.us fab. in Iuris prudentia ... principio ... 2 ... multis bonorum auctorum testimoniis comprobavit exinde multum prospicere custodie bonorum mobilium. si quidem ea neglecta et ommissa ... possessionis afferri ... ut constat ex ... mobilem ... de adquirenda possessione ibi ... rei forsitan illa ratio est quod rerum mobilium negleta

ad q.e ommissa

ad ... custodia est quare cum bona hereditaria morte domini vacuissent et nec de ventis ... perfectionem introduxissent ... et nomine hereditatis voluerunt ne adita hereditate ... adhuc ... sine possessione essent furtis ex posita cum ... in heredis custodia et ideo voluerunt ipsi legislatores ut heres quamprimum posset possessionem apprehenderet quod si non faceret eius periculo sit apprehendere possessionem ... ... furti actionem dare quae satis ... siquidem praeter rei furate persecutionem ...

Pene nomine quadruplex usus Rei persequendae manifestae et duplex furtivae, manifestum illud, nomine cujusmodi tituli institutam de obligationibus, que ex delicto nascuntur, quae pena duplici et quadrupli, ab aula regia testatur Farinacius de furtis q. 167 n. 27. et nos dicere necesse habemus quae confirmata sunt per tex. in l. 9 [illegible] tit. 24 Part. 7. et actus furtivus [illegible] maritus legislatores si ipse posset rei vindicatione [illegible] hereditatis petitione competere justa [illegible] cod. decrimine expilatae hereditatis intendere quae remedia [illegible] valuerit, ut est furti actio [illegible] Vigianus in d. q. 25 in decrimine expilatae hereditatis in jure casus furti actionem competere [illegible] ad quam ad exhibendum, a se posse [illegible] vindicatu[illegible] exhiberi [illegible] [illegible] admittenda est et eadem probabimus ex textu in d. q. [illegible] n. 6. in tit. de furtis illis verbis [illegible] [illegible] quamvis possiderent ante sub [illegible] n. 9 8.

Et [illegible] verd. [illegible]

[illegible] competere furti actionem ante [illegible] possessionem nec in contrarium [illegible] in d. l. 9 [illegible] cod. de furtis deductus sup. n. 9 5 q.

Respondendum est [illegible] acertio [illegible] dominus [illegible] nobis [illegible] furti actionem tenere [illegible] dominus et etiam [illegible] possessione [illegible]

terminos fabiles supponamus argumento leg. qui tutt.º 20 de tt.º legat graduali et ff. de muneribus et honoribus in esse obstat tex. adversus d. nº 95 ind.ª lg. tit.º 35 de usu capionibus cuius tex. resolutionem mile interpretes elementis involuta ad sembre Benedictus primo lib. lib. 2 cap. nº nº 47. credendo ab eo laudato vel cussio. lib. 1.º Iuliani adversus feroces ind.ª lg. tit.º Richardo de nostris ttz. de cap. com.º 32 et inf. sui anz. 46 de ingressu de gradu qualitatis. Sicut cuius tex. interpretationem respondent cussius ubique. Richardo ind.º 5.º sui nº 48 et alii noviores tantae clarius maiores ubi sup. nº 22 servus in eo ttu. cuius usus fructus legatus fuit usurpatus fuse posquam das legati sepe et adita hereditate post praestitam cautionem ab usufructuario qua ratione possessore habetur de eo cum usque superime custodiam servi et sua interest surreptum in fuge competit actio furti usufructu. ratio herede quinunquam possidetur heri interpretatio fuit de mente accursi ind.ª lg. tit.º sed recte com banctor exturadis achimaiero ubi sup. quare inadmissa baesituatione et interpretatione tradita. a Richardo d.º lib.º cap. 9 nº 49 qui eam commodiore extradictis ad chimaieno et explosa eam solutione ipsius d. Iul.º ad chimaiero de disputatione 4 nº 45 qui ad separatatis afuit comfugit

nº 99 — Additis ind.ª lg. tit.º ita recte responderim.

Rei furtivae usucapio prohibita l. quod subrep-
tum de ... et gatinia ut constat ex l. 4 § ... et 34
de usucapionibus § furtivae 2 institut. eodem tit. vide
d. Adrianus Pinelus ad l. 3 [illegible] cap. 1 in fine
et sequitur Donellus lib. 5 commentariorum cap. 9 et
sequentibus, ubi cl. disserit ... unde cum haere-
ditariae antequam possideatur ab haerede legata
rerum in hac furtum dubitatum fuit in specie l. quis
ancillam cuius usufructus legatus fuit nunquid
fiat post aditam haereditatem, ante enim non dici res
legati vel usufructus l. unica § libertatibus cum
similibus. Cod. de caducis tollendis, stante quod haeres
res apprehenderit et possessionem et in usucapionibus in qua
quod Julianus ex Sabino respondit usucapi non posse ser-
vum cuius nomine furti agi potuit, agere autem fur-
ti ... in casu proposito eum qui frui deberet ut e
usufructuarium, ita tamen si praestitisset cautionem
fructuariam d. l. quo ... § penultimo usu-
fructuarium quem ad modum cavet Donellus lib. 10
commentariorum cap. 24, alioquin enim non ...
tr. furtivis servis et ... fuisset ante
praestitam cautionem, hanc enim nec usufructua-
rio furti actio competet de talibus quaesitum ante appre-
hensam possessionem rei haereditariae furtum sit et
respondetur in specie d. l. quis ... furti actionem
competere usufructuario ante apprehensam possessionem.

ex iudicati generis in presenti communis utendi et fruendi in
superiores et iure tenendi propterea ipsius fructus seget eius
temptationis que suarum partium erat (aut presentium eius
casibus et ordinis. Cujus tum eo consistat) in qualitate de
lege cautione utendo et fruendo [illegible] bona
[illegible] et [illegible]